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राजपत्र, हिमाचल प्रदेश

हिमाचल प्रदेश राज्य शासन द्वारा प्रकाशित

सोमवार, 30 मार्च, 2026 / 09 चैत्र, 1947

हिमाचल प्रदेश सरकार

LABOUR, EMPLOYMENT & OVERSEAS PLACEMENT DEPARTMENT

NOTIFICATION

Shimla-171 002 the 16th March, 2026

No. LEP-A003/15/2023.—In exercise of the power conferred by Section 27 of Himachal Pradesh Shops & Commercial Establishments Act, 1969, the Governor, Himachal Pradesh is

pleased to exempt following retail stores of M/s Reliance Retail Limited in H.P. (as per list below) from the operation of Section 10 of the Himachal Pradesh Shops and Commercial Establishment Act, 1969 (Act No. 10 of 1970) and Rule 11 of the Himachal Pradesh Shops and Commercial Establishments Rules, 1972 for a period of one year from the date of publication of this notification in the Official Gazette. Further, the above exemption shall be subjected to the strict compliance of the other applicable provisions of the act *ibid* and other applicable Labour Laws.

Sl. No.	Establishment	City	Address
1.	Reliance Retail Limited	Bilaspur	Trends, Purnam Mall, Kosrian Sector, NH, Bilaspur-174 001.
2.	Reliance Retail Limited	Solan	Trends, Dang Complex, Ward No. 6, Rajgarh Road, Near Old DC Office, Solan-173 212.
3.	Reliance Retail Limited	Banikhet	Trends, Above Maruti Service Center, Near Hotel Sahara Inn, Banikhet, Dalhousie Road, Chamba.
4.	Reliance Retail Limited	Ghumarwin	Smart Point, Dr. N.D. Sharma, Adj. State Bank of India, Shimla-Kalka Road, Ghumarwin, Distt. Bilaspur-174021.
5.	Reliance Retail Limited	Solan	Smart Point Shirgul Complex, Opp. Bharat Petrol Pump, Khundidhar, Kotlanala-Rajgarh Road, Shamti, Solan-173212.
6.	Reliance Retail Limited	Solan	Smart Point, Mamoore Complex, Near Gurudwara, bye Pass Saproon, Solan.
7.	Reliance Retail Limited	Dharamshala	Trends, Sagar Tatna Building, Civil Lines, Dharamshala.
8.	Reliance Retail Limited	Ghumarwin	Trends, Dr. N.D. Sharma, Adj. State Bank of India, Ghumarwin, District Bilaspur-174021.
9.	Reliance Retail Limited	Solan	Jewels, Shop No. 8-9, Vivanta Mall, Mall Road, Solan-173212.
10.	Reliance Retail Limited	Solan	Digital, Kapoor Complex, Mauja Kathar, The Mall Road, Solan-173212.
11.	Reliance Retail Limited	Narwana	Smart point, Dualadhar Complex, GT Road Narwana, Yol Cantt., DAV School Chowk, Dharamshala, Kangra-176052.
12.	Reliance Retail Limited	Dharamshala	Smart Point, Sham Nagar, Ward No. 10, Near Punjab National Bank, Dharamshala, Kangra-176215.
13.	Reliance Retail Limited	Bilaspur	Signature, Purnam Cineplex Mall, Commercial Complex, Main Market, Court Road, Bilaspur-174001.
14.	Reliance Retail Limited	Solan	John Players, Kapoor Complex, Near Himani Hotel, Mall Road, Solan-173212.

By order,

Secretary (LE&OP).

LABOUR EMPLOYMENT & OVERSEAS PLACEMENT DEPARTMENT

NOTIFICATION

Shimla-171 002, the 6th March, 2026

No. LEP-E/1/2024.—In exercise of the powers vested under section 17 (1) of the Industrial Disputes Act, 1947, the Governor Himachal Pradesh is pleased to order the publication of awards of the following cases announced by the **Presiding Judge, Labour Court-*cum*-Industrial Tribunal, Dharamshala, H.P.** on the website of the Printing & Stationery Department, Himachal Pradesh *i.e.* **"e-Gazette"**:—

Sl. No.	Ref./ No.	Petitioner	Respondent	Date of Award/Order
1.	44/24	Anita Devi	Govt. Primary School Mandi & Other	06-01-2026
2.	48/24	Manju Kumari	E.E. Jal Shakti Sarkaghat & other	06-01-2026
3.	147/19	Parshotam Chand	M/S Divya Himachal Prakashan	13-01-2026
4.	150/19	Jitender Kumar	- Do-	-Do-
5.	37/22	Sunil Kumar	- Do-	-Do-
6.	07/20	Rajiv Goswami	M/S Jagran Prakashan & other	-Do-
7.	98/21	Gajay Kumar	M/S New Prem Bus Nagrota Bagwan	15-01-2026
8.	12/25	Naresh Kumar	Director Industgries Govt. of H.P. & other	15-01-2026
9.	22/23	Rajinder Kumar	M/S Ganesh oil Mills	16-01-2026
10.	77/20	Chhabi Ram	The D.F.O. Suket	20-01-2026
11.	163/17	Vijay Kumar	M/S J.M. Welson	20-01-2026
12.	205/17	Sourabh Khatri	Awa Power Project & other	21-01-2026
13.	56/18	Sanjeev Kumar	Awa Power Project & other	21-01-2026
14.	04/18	Ravi Thakur	G.M. IQU Power Company & other	21-01-2026
15.	51/24	Anita Kumari	E.E. Jal Shakti Sarkaghat & other	13-01-2026

By order,

Sd/-
PRIYANKA BASU INGTY, IAS,
Secretary (Lab. Emp. & O.P.).

IN THE COURT OF PARVEEN CHAUHAN, PRESIDING JUDGE, LABOUR COURT-CUM-INDUSTRIAL TRIBUNAL, KANGRA AT DHARAMSHALA (H.P.) (CAMP AT MANDI)

Reference No. : 44/2024

Date of Institution : 18-9-2024

Date of Decision : 06-1-2026

Smt. Anita Devi w/o Pardeep Kumar, r/o Village Lanjhnu, P.O. Kamand, Tehsil Sadar, District Mandi, H.P. ..*Petitioner.*

Versus

1. The Headmistress, Government Primary School Lanjhnu, Block Sadar, District-1, Mandi, District Mandi, H.P.

2. The President, School Management Committee, Government Primary School Lanjhnu, District Mandi, H.P.

3. The Deputy Director, Elementary Education of H.P. Shimla, District Shimla, H.P.

..Respondents.

Reference under Section 10 (1) of the Industrial Disputes Act, 1947

For the Petitioner : Petitioner in person

For Respondent(s) : Sh. B.C. Katoch, Ld. Dy. D.A.

AWARD

The following reference has been received by this court for adjudication from the appropriate Authority/Deputy Labour Commissioner:—

> "Whether the termination of services of Smt. Anita Devi w/o Shri Pardeep Kumar, r/o Village Lanjhnu, P.O. Kamand, Tehsil Sadar, District Mandi, H.P. *w.e.f.* 01-02-2021 by (i) the Headmistress, Government Primary School, Lanjhnu, Block Sadar, District-1, Mandi, District Mandi, H.P. (ii) the President, School Managing Committee, Government Primary School Lanjhnu, District Mandi, H.P. (iii) the Deputy Director, Elementary Education of H.P. Shimla, District Shimla, H.P. without complying with the provisions of the Industrial Disputes Act, 1947, is legal and justified? If not, what amount of back wages, seniority, past service benefits and compensation the above worker is entitled to from the above employers?"

2. The case of the petitioner was listed for framing of issues. At this stage the petitioner has made statement before this court that the respondents school has been closed and due to which she does not want to pursue the present reference and the same was withdrawn by the petitioner.

3. In view of the statement made by petitioner the claim of the petitioner dismissed as withdrawn. The parties are left to bear their costs.

4. The reference is answered in aforesaid terms. A copy of this Award be sent to the appropriate Government for publication in the official gazette. File after due completion be consigned to the Record Room.

Announced in the open Court today, this 6th day of January, 2026.

Sd/-
(PARVEEN CHAUHAN),
Presiding Judge,
Labour Court-cum-*Industrial Tribunal,*
Kangra at Dharamshala (H.P.).
(Camp at Mandi)

IN THE COURT OF PARVEEN CHAUHAN, PRESIDING JUDGE, LABOUR COURT-CUM-INDUSTRIAL TRIBUNAL, KANGRA AT DHARAMSHALA (H.P.) (CAMP AT MANDI)

Reference No. : 48/2024

Date of Institution : 6-11-2024

Date of Decision : 06-1-2026

Smt. Manju Kumari w/o Shri Sunil Kumar, r/o Village Gadhayara, P.O. Ropari, Tehsil Sarkaghat, District Mandi, H.P. ..*Petitioner.*

Versus

1. The Executive Engineer, Jal Shakti Division Sarkaghat, District Mandi, H.P. (Principal Employer)

2. The Managing Director, M/s Shimla Cleanways, Sahibu Niwas, New Shimla, District Shimla, H.P. (Contractor) ..*Respondents.*

Reference under Section 10 (1) of the Industrial Disputes Act, 1947

For the Petitioner : Sh. N.L. Kaundal, Ld. AR

For Respondent No. 1 : Sh. B.C. Katoch, Ld. Dy. D.A.

For Respondent No. 2 : Sh. Harish Guleria, Ld. Adv.

AWARD

The following reference has been received by this court for adjudication from the appropriate Authority/Deputy Labour Commissioner:—

> "Whether the termination of services of Smt. Manju Kumari w/o Shri Sunil Kumar, r/o Village Gadhayara, P.O. Ropari, Tehsil Sarkaghat, District Mandi, H.P. by (i) the Executive Engineer, Jal Shakti Division Sarkaghat, District Mandi, H.P. (Principal Employer) (ii) the Managing Director, M/S Shimla Cleanways, Sahibu Niwas, New Shimla, District Shimla, H.P. (Contractor) w.e.f. 01.04.2023 (as alleged by workman, without complying with the provisions of the Industrial Disputes Act, 1947, is legal and justified? If not, what amount of back wages, seniority, past service benefits and compensation the above worker is entitled to from the above employers?"

2. The case of the petitioner was listed for petitioner's evidence. At this stage learned Authorized Representative of the petitioner that the services of petitioner had been reinstated by the department as multi task worker in the month of May/June, 2025 and now the petitioner does not want to pursue the present reference and the same *vide* separate statement is withdrawn by learned Authorized Representative of the petitioner.

3. In view of the statement made by learned Authorized Representative of the petitioner the claim of the petitioner is dismissed as withdrawn. The parties are left to bear their costs.

4. The reference is answered in aforesaid terms. A copy of this Award be sent to the appropriate Government for publication in the official gazette. File after due completion be consigned to the Record Room.

Announced in the open Court today, this 6th day of January, 2026.

Sd/-
(PARVEEN CHAUHAN),
Presiding Judge,
Labour Court-cum-*Industrial Tribunal,*
Kangra at Dharamshala, (H.P.).
(Camp at Mandi)

IN THE COURT OF PARVEEN CHAUHAN, PRESIDING JUDGE, LABOUR COURT-CUM-INDUSTRIAL TRIBUNAL, KANGRA AT DHARAMSHALA (H.P.)

Reference No. : 147/2019

Date of Institution : 02-12-2019

Date of Decision : 13-1-2026

Shri Parshotam Chand s/o Shri Udham Singh, r/o Village & P.O. Shamirpur, Tehsil & District Kangra, H.P. ..*Petitioner.*

Versus

The Management of M/S Divya Himachal Prakashan Pvt. Ltd. through its CMD Head Office at Kangra Pathankot Marg, Old Matour Tehsil & Distt. Kangra, H.P. ..*Respondent.*

Reference under Section 17 (1) of the Working Journalist & Other Newspaper Employees and Miscellaneous Provisions Act, 1955

For the Petitioner : Sh. Ravinder Aggarwal, Ld. AR

For Respondent : Ms. Sapna Thakur, Ld. Adv. Vice

AWARD

The following industrial disputes have been received by this court for the purpose of adjudication from the appropriate authority:—

> "Whether the claimsubmitted by Parshotam Chand s/o Sh. Udham Singh, r/o Village & P.O. Shamirpur, Tehsil & District Kangra H.P. under Section 17(1) of Working Journalists and Other News Paper Employees (Conditions to Service) and Miscellaneous Provisions Act, 1955 amounting Rs. 41,53,091.00 is legal and justified. If not what amount of benefit of claim the above worker is entitled to from the above employer?"

2. An application has been moved on behalf of the applicant/claimant to withdraw the present reference pending before this Court and to file fresh claim according to notification of the

Secretary (Labour & Employment) to the Government of Himachal Pradesh dated 22.12.2025. It is submitted in the application that on his application dated 04.09.2025 the Ld. Secretary (Labour & Employment) to the Government of Himachal Pradesh *vide* notification No. LEP-A003/9/2025-LEP, dated 22.12.2025 the reference notification No. LO/DSL/IVLL/ WJA/18/2019-789-794, dated 02.11.2019/ 23.11.2019 made by the appropriate authority specified in terms of Section 17(1) of the Working Journalists and other Newspaper Employees (Conditions of Service) and Miscellaneous Provisions Act, 1955 has been withdrawn and a proper and valid reference has been made for adjudication before this Court in terms of Section 17(2) of the Act, 1955. The State Government *vide* notification dated 22.12.2025 has withdrawn the defective as well as ultra virus notification No. LO/DSL/IV LL/WJA/18/2019-789-794 dated 02.11.2019/ 23.11.2019and has now made a proper reference in terms of Section 17(2) of the Act. The applicant/claimant now prays that in consideration of the notification dated 22.12.2025 a proper and valid reference issued by the State Government in terms of Section 17(2) of the Act, 1955 the present reference No. 147/2019 has been dismissed as withdrawn by the petitioner. The statement of the Authorised Representativeof the petitioner is recorded to the effect. In view of the application, revised notification/reference the present reference No. 147/2019 has become infructuous.

3. The reference is answered in aforesaid terms. A copy of this Award be sent to the appropriate Government for publication in the official gazette. File after due completion be consigned to the Record Room.

Announced in the open Court today, this 13th day of January, 2026.

Sd/-
(PARVEEN CHAUHAN),
Presiding Judge,
Labour Court-cum-*Industrial Tribunal,*
Kangra at Dharamshala (H.P.).

IN THE COURT OF PARVEEN CHAUHAN, PRESIDING JUDGE, LABOUR COURT-CUM-**INDUSTRIAL TRIBUNAL, KANGRA AT DHARAMSHALA (H.P.)**

Reference No. : 150/2019

Date of Institution : 02-12-2019

Date of Decision : 13-1-2026

Shri Jitender Kumar s/o Late Sh. RoshanLal, r/o V.P.O. Dhanotu, Tehsil Shahpur, District Kangra, H.P. ..*Petitioner.*

Versus

The Management of M/S Divya Himachal Prakashan Pvt. Ltd. through its CMD Head Office at Kangra Pathankot Marg, Old Matour Tehsil & Distt. Kangra, H.P. ..*Respondent.*

Reference under Section 17 (1) of the Working Journalist & Other Newspaper Employees and Miscellaneous Provisions Act, 1955

For the Petitioner : Sh. Ravinder Aggarwal, Ld. AR

For Respondent : Ms. Sapna Thakur, Ld. Adv. Vice

AWARD

The following industrial disputes have been received by this court for the purpose of adjudication from the appropriate authority:—

> "Whether the claimsubmitted by Sh. Jitender Kumar s/o Late Sh. Roshan Lal, r/o V.P.O. Dhanotu, Tehsil Shahpur, District Kangra H.P. under Section 17(1) of Working Journalists and Other News Paper Employees (Conditions to Service) and Miscellaneous Provisions Act, 1955 amounting Rs. 40,55,999.00 is legal and justified. If not what amount of benefit of claim the above worker is entitled to from the above employer?"

2. An application has been moved on behalf of the applicant/claimant to withdraw the present reference pending before this Court and to file fresh claim according to notification of the Secretary (Labour & Employment) to the Government of Himachal Pradesh dated 22.12.2025. It is submitted in the application that on his application dated 04.09.2025 the Ld. Secretary (Labour & Employment) to the Government of Himachal Pradesh *vide* notification No. LEP-A003/8/2025-LEP, dated 22.12.2025 the reference notification No. LO/DSL/IVLL/ WJA/19/2019-782-787, dated 11.11.2019/23.11.2019 made by the appropriate authority specified in terms of Section 17(1) of the Working Journalists and other Newspaper Employees (Conditions of Service) and Miscellaneous Provisions Act, 1955 has been withdrawn and a proper and valid reference has been made for adjudication before this Court in terms of Section 17(2) of the Act, 1955. The State Government *vide* notification dated 22.12.2025 has withdrawn the defective as well as ultra virus notification No. LO/DSL/IV LL/WJA/19/2019-782-787 dated 11.11.2019/ 23.11.2019and has now made a proper reference in terms of Section 17(2) of the Act. The applicant/claimant now prays that in consideration of the notification dated 22.12.2025 a proper and valid reference issued by the State Government in terms of Section 17(2) of the Act, 1955 the present reference No. 150/2019 has been dismissed as withdrawn by the petitioner. The statement of the Authorised Representativeof the petitioner is recorded to the effect. In view of the application, revised notification/reference the present reference No. 150/2019 has become infructuous.

3. The reference is answered in aforesaid terms. A copy of this Award be sent to the appropriate Government for publication in the official gazette. File after due completion be consigned to the Record Room.

Announced in the open Court today, this 13th day of January, 2026.

Sd/-
(PARVEEN CHAUHAN),
Presiding Judge,
Labour Court-cum-*Industrial Tribunal,*
Kangra at Dharamshala (H.P.).

IN THE COURT OF PARVEEN CHAUHAN, PRESIDING JUDGE, LABOUR COURT-CUM-**INDUSTRIAL TRIBUNAL, KANGRA AT DHARAMSHALA (H.P.)**

Reference No.	: 37/2022
Date of Institution	: 05-03-2022
Date of Decision	: 13-1-2026

Shri Sunil Kumar s/o Late Sh. Mahipal Singh, r/o H. No.71/4, Near Nursing Hostel, Hospital Road Mandi, District Mandi, H.P. ..*Petitioner.*

Versus

The Management of M/s Divya Himachal Prakashan Pvt. Ltd. through its CMD Head Office at Kangra Pathankot Marg, Old Matour Tehsil & Distt. Kangra, H.P. ..*Respondent.*

Reference under Section 17 (1) of the Working Journalist & Other Newspaper Employees and Miscellaneous Provisions Act, 1955

For the Petitioner : Sh. Ravinder Aggarwal, Ld. AR

For Respondent : Ms. Sapna Thakur, Ld. Adv. Vice

AWARD

The following industrial disputes have been received by this court for the purpose of adjudication from the appropriate authority:—

"Whether the claim submitted by Sh. Sunil Kumar, s/o Late Sh. Mahipal Singh, r/o H.No.71/4, Near Nursing Hostel, Hospital Road Mandi, District Mandi, H.P.-175001 under Section 17(1) of Working Journalists and Other News Paper Employees (Conditions to Service) and Miscellaneous Provisions Act, 1955 amounting Rs. 27,22,730.00 is legal and justified. If not what amount of benefit of claim the above worker is entitled to from the above employer?"

"Whether, the objection raised by the Employer in his reply about the Jurisdiction to entertain the present application on the ground that the applicant was working in Bureau Office Mandi is legal and justified?"

2. An application has been moved on behalf of the applicant/claimant to withdraw the present reference pending before this Court and to file fresh claim according to notification of the Secretary (Labour & Employment) to the Government of Himachal Pradesh dated 22.12.2025. It is submitted in the application that on his application dated 04.09.2025 the Ld. Secretary (Labour & Employment) to the Government of Himachal Pradesh *vide* notification No. LEP-A003/11/2025-LEP, dated 22.12.2025 the reference notification No. LO/DSL/IVLL/ WJA/26/2021-1103,dated 10.02.2022 made by the appropriate authority specified in terms of Section 17(1) of the Working Journalists and other Newspaper Employees (Conditions of Service) and Miscellaneous Provisions Act, 1955 has been withdrawn and a proper and valid reference has been made for adjudication before this Court in terms of Section 17(2) of the Act, 1955. The State Government *vide* notification dated 22.12.2025 has withdrawn the defective as well as ultra virus notification No. LO/DSL/IV LL/WJA/26/2021-1103 dated 10.02.2022 and has now made a proper reference in terms of Section 17(2) of the Act. The applicant/claimant now prays that in consideration of the notification dated 22.12.2025 a proper and valid reference issued by the State Government in terms of Section 17(2) of the Act, 1955 the present reference No. 37/2022has been dismissed as withdrawn by the petitioner. The statement of the Authorised Representativeof the petitioner is recorded to the effect. In view of the application, revised notification/reference the present reference No. 37/2022 has become infructuous.

3. The reference is answered in aforesaid terms. A copy of this Award be sent to the appropriate Government for publication in the official gazette. File after due completion be consigned to the Record Room.

Announced in the open Court today, this 13th day of January, 2026.

Sd/-
(PARVEEN CHAUHAN),
Presiding Judge,
Labour Court-cum-*Industrial Tribunal,*
Kangra at Dharamshala (H.P.).

IN THE COURT OF PARVEEN CHAUHAN, PRESIDING JUDGE,LABOUR COURT-CUM-**INDUSTRIAL TRIBUNAL, KANGRA AT DHARAMSHALA (H.P.)**

Reference No. : 07/2020

Date of Institution : 21-01-2020

Date of Decision : 13-1-2026

Shri Rajiv Goswam is/o Late Sh. Desraj Goswami, r/o Village Suked, P.O. Nalsuha, Tehsil Dehra, District Kangra, H.P. ..*Petitioner.*

Versus

1. The Management of M/S Jagran Prakashan Ltd. Registered Office at Jagran Building 2, Sarvodaya Nagar, Kanpur (U.P.)-208005.

2. Chief General Manager, M/S Jagran Prakashan Ltd., Village Banoi, P.O. Rajol, Tehsil Shahpur, Distt. Kangra, H.P.

3. General Manager, M/S Jagran Prakashan Ltd., Vill. Banoi, P.O. Rajol, Tehsil Shahpur, Distt. Kangra, H.P. ..*Respondents.*

Reference under Section 17 (1) of the Working Journalist & Other Newspaper Employees and Miscellaneous Provisions Act, 1955

For the Petitioner : Sh. Ravinder Aggarwal, Ld. AR

For Respondent : Ms. Sapna Thakur, Ld. Adv. Vice

AWARD

The following industrial disputes have been received by this court for the purpose of adjudication from the appropriate authority:—

"Whether the claim submitted by Sh. Rajiv Goswami s/o Late Sh. Desraj Goswami, r/o Village Suked, P.O. Nalsuha, Tehsil Dehra, District Kangra, H.P.-177104 under Section 17(1) of Working Journalists and Other News Paper Employees (Conditions to Service) and Miscellaneous Provisions Act, 1955 amounting Rs. 27,86,541.00 is legal and justified. If not what amount of benefit of claim the above worker is entitled to from the above employer?"

2. An application has been moved on behalf of the applicant/claimant to withdraw the present reference pending before this Court and to file fresh claim according to notification of the Secretary (Labour & Employment) to the Government of Himachal Pradesh dated 31.12.2025. It is submitted in the application that on his application dated 04.09.2025 the Ld. Secretary (Labour & Employment) to the Government of Himachal Pradesh *vide* notification No. LEP-A003/7/2025-LEP, dated 31.12.2025 the reference notification No. LO/DSL/IVLL/ WJA/24/2019-993,dated 06.01.2020 made by the appropriate authority specified in terms of Section 17(1) of the Working Journalists and other Newspaper Employees (Conditions of Service) and Miscellaneous Provisions Act, 1955 has been withdrawn and a proper and valid reference has been made for adjudication before this Court in terms of Section 17(2) of the Act, 1955. The State Government *vide* notification dated 31.12.2025 has withdrawn the defective as well as ultra virus notification No. LO/DSL/IV LL/WJA/24/2019-993 dated 06.01.2020 and has now made a proper reference in terms of Section 17(2) of the Act. The applicant/claimant now prays that in consideration of the notification dated 31.12.2025 a proper and valid reference issued by the State Government in terms of Section 17(2) of the Act, 1955 the present reference No. 07/2020 has been dismissed as withdrawn by the petitioner. The statement of the petitioner is recorded to the effect. In view of the application, revised notification/reference the present reference No. 07/2020 has become infructuous.

3. The reference is answered in aforesaid terms. A copy of this Award be sent to the appropriate Government for publication in the official gazette. File after due completion be consigned to the Record Room.

Announced in the open Court today, this 13th day of January, 2026.

Sd/-
(PARVEEN CHAUHAN),
Presiding Judge,
Labour Court-cum-*Industrial Tribunal,*
Kangra at Dharamshala (H.P.).

IN THE COURT OF PARVEEN CHAUHAN, PRESIDING JUDGE, LABOUR COURT-CUM**-INDUSTRIAL TRIBUNAL, KANGRA AT DHARAMSHALA (H.P.)**

Reference No. : 98/2021

Date of Institution : 16-9-2021

Date of Decision : 15-1-2026

Shri Gajay Kumar s/o Shri Shri Sher Singh, r/o Village Nee, P.O. Draman, Tehsil Jasinghpur, District Kangra, H.P. ..*Petitioner.*

Versus

The Proprietor, M/s New Prem Bus Service, V.P.O. Nagrota Bagwan, District Kangra, H.P. ..*Respondent.*

Reference under Section 10 (1) of the Industrial Disputes Act, 1947

For the Petitioner : Sh. N.L. Kaundal, Ld. AR

: Sh. Vijay Kaundal, Ld. Adv.

For Respondent : Sh. Rahul Gupta, Ld. Adv.

: Sh. Adhar Gupta, Ld. Adv.

AWARD

The following industrial disputes has been received by this court for the purpose of adjudication from the appropriate authority/Joint Labour Commissioner:—

> "Whether the termination of services of Shri Gajay Kumar s/o Shri Shri Sher Singh, r/o Village Nee, P.O. Draman, Tehsil Jasinghpur, District Kangra, H.P. by the Proprietor, M/s New Prem Bus Service, V.P.O. Nagrota Bagwan, District Kangra, H.P. w.e.f. 01-04-2018 without complying with the provisions of the Industrial Disputes Act, 1947, is legal and justified? If not, what amount of back wages, seniority, past service benefits and compensation the above worker is entitled to from the above employer?"

2. The brief facts as stated in the claim petition are that the services of the petitioner were engaged by the respondent in the year 2002 as Conductor and continuously worked in the said capacity uptil 1.4.2018. During his entire service tenure with the respondent he (petitioner) performed his duties with upmost satisfaction of the respondent and never given any chance for complaint in any negligence in duty. Rather his work and conduct was appreciated by the respondent and no show cause notice was ever issued to the petitioner by the respondent. It is asserted that the petitioner had performed his duties in bus in accordance with the respondent in different stations and routes as sanctioned by the transport authorities of State of Himachal Pradesh. The strength of employees of various categories like as driver, conductor, mechanic, foreman and other clerical/administrative staff etc. under the respondent was more than 250 however the Certified Standing Order Act, 1946 is applicable to the respondent. The petitioner was office bearer/member of Brijeshwari Drivers/Conductors Society Kangra. The above society raised various demands to be fulfilled by the respondent however instead of fulfilling the demands the respondent told the petitioner to leave the union/society and sign some blank papers if he wants to continue his employment with the respondent. The petitioner refused to do the same and due to this reason the services of the petitioner were verbally terminated by the respondent w.e.f. April, 2018 without complying with the mandatory provisions of the Industrial Disputes Act, 1947. At the time terminating the services of the petitioner the principle of 'last come first go' was not followed by the respondent and person junior to him were retained in service as well as fresh hand was employed in his place without affording an opportunity of re-employment to the petitioner was the clear violation of Section 25 Clauses G and H of the Industrial Disputes Act, 1947. Neither one month's notice and notice pay in lieu of notice period was paid to the petitioner nor retrenchment compensation was given to him as well as no information was ever given to the petitioner regarding his termination of services which was clear violation of Section 25 Clause F (a) and (b) of the Industrial Disputes Act, 1947. It is asserted that the petitioner had completed more than 240 days in each and every calendar year and in the last 12 calendar months from the date of his termination. The petitioner had filed demand notice dated 27.10.2020 under Section 2-A read with Section 25-F, 25-G and 25-H of the Industrial Disputes Act, 1947 against the respondent and copy of the same was forwarded to Labour-cum-Conciliation Officer, Dharamshala for necessary action praying for reinstatement of his service with seniority, continuity in service and full back wages along-with all consequential benefits. Upon receipt of demand notice of petitioner as well as other counterpart namely S/Sh. Abhishek Dohru, Surinder Kumar, Gulshan Walia, Raj Kumar, Gopal Krishan, Karam Chand, Sanjay Kumar, Santosh Kumar, Chuni Lal, Jagdeep Chand, Ashok Kumar, Sourabh Sharma, Soni Kumar, Sunil Kumar,Rakesh Kumar, Surinder Kumar, Rakesh Kumar, Yash Paul Sharma, Sanjay Kumar, Karnail Singh, Raj Kumar, Chain Singh, Kuldeep Singh, Vipan Kumar, Suresh Kumar, Jai Dev, Raj Kumar, Vijay Kumar, Jai Dev, Madan Lal, Jaswant Singh, Vikram

Singh, Pritam Singh and Amit Rana had forwarded by Labour Officer, Dharamshala to Labour Inspector Dharamshala for further necessary ation and the notice dated 17.9.2020 was issued to Shri Pawan Kumar and Shr. Parveen Kumar employer M/s New Prem Bus Services for appearance on 28.9.2020 at 11 AM. On 28.9.2020 Shri N.L.Kaundal, learned AR of workers along-with Sh. Rajat Choudhary, learned Advocate and Shri Soni Kumar appeared on behalf of workers and Shri Dheeraj Sharma, Ld. Adv. along-with Shri Pawan Kumar and Paras Soni appeared on behalf of respondent. During conciliation Shri Pawan Kumar (Proprietor/Partner, M/s New Prem Bus Service had given statement before lockdown due to covid-19 pandemic w.e.f. 24.3.2020 the working strength of employees in different categories like as drivers, conductors, mechanics, foreman, inspectors and other office staff were about 250 and they have owned 83 buses and 210 employees permanently discharging duties. It was asserted by Shri Pawan Kumar that after relaxation in lockdown 50 buses were running and the persons who have raised their demands had not joined their services at their owns. During conciliation proceedings Shri Pawan Kumar has stated with regard to reinstatement of the services of the workers w.e.f. 10.10.2020 whose demand notices were pending before the Labour Inspector, Dharamshala. It is asserted that the respondent had not filed any reply to the demand notice of petitioner before the Conciliation Officer till conclusion of conciliation proceedings that means the respondent admitted the facts mentioned in the demand notice by the petitioner on 27.10.2020 It is asserted that the respondent is one of the biggest private bus transporters in Himachal Pradesh having owned 90 to100 buses which are plying in 85 different routes. It is asserted that more than 250 employees of different categories were engaged and some of them were working from last 5 to 25 years with the respondent. The act of the respondent to terminate the services of the petitioner without complying with the mandatory provisions of the Industrial Disputes Act, 1947 amounts to unfair labour practice as per Section 2(ra) read with Fifth Schedule Clause 4 (a), (f) and 5 (a) of the Industrial Disputes Act,1947. It is alleged while terminating the services of the petitioner the act of respondent was highly unjustified, arbitrary, unconstitutional and against the mandatory provisions of the Industrial Disputes Act, 1947 however the petitioner be entitled for reinstatement of his service with seniority, continuity in service and full back wages along-with all consequential benefits from the date of his illegal termination i.e. April, 2018. It is asserted that the petitioner is still unemployed and was not gainfully employed anywhere. In view of the above submissions, it is prayed that the termination of the services of petitioner during April, 2018 may kindly be set aside and respondent be directed to reinstate the services of petitioner with full back wages, seniority, continuity in service along-with all consequential service benefits and interest of @ 12% on back wages.

3. In reply to the claim petition preliminary objections qua maintainability, petitioner being not a workman, petitioner approaching the court with clean hands, cause of action etc. were raised. It is asserted that the petitioner was never retrenched by the respondent and he was only a contractual employee who was called by the respondent on requirement basis from time to time on the basis of oral contract and non renewal of contract does not amount to retrenchment. It is asserted that the claim of the petitioner is barred by virtue of Section 2(oo) (bb) of the Industrial Disputes Act, 1947 and the petitioner is not entitled to any relief. On merits, it is asserted that the services of the petitioner were engaged on requirement basis from time to time on part-time and contractual basis. He (petitioner) never worked continuously from 2002 to 1.4.2018. The petitioner was never engaged in the year 2002. No appointment letter was ever issued to petitioner. The period of continuous service was not fulfilled by the petitioner as envisaged under Section 25 Clause F of the Industrial Disputes Act, 1947. It is asserted that the petitioner and other contractual workers did not join even after being called by the respondent. It is asserted that Certified Standing Order Act, 1946 is not applicable to the respondent. It is asserted that show cause notice was issued to the petitioner on 1.1.2021 for not submitted requisite documents and he did not resume or join the part-time contractual work as and when called by the respondent. The petitioner was called only on requirement basis on oral contract and was never employed on pay roll by the respondent. Neither the petitioner was a regular/permanent employee of the respondent nor received salary but

he was paid only on daily basis when called. It is denied that the petitioner was a member of the society however the alleged society is not a registered society. It is asserted that the respondent had never asked the petitioner to leave any society and was not asked to sign the blank papers. During the pendency of the conciliation the petitioner was called by the respondent for contractual work as he had performed earlier but the petitioner did not join the said work on his own will. Thereafter the respondent informed the Labour Officer about the non joining of petitioner as well as other persons *vide* letter dated 1.12.2020. It is asserted that the petitioner was casual and temporary employee who was called by the respondent on requirement basis on contract as and when his services were required by the respondent. It is asserted that the services of petitioner were not required for the period starting April, 2018 due to imposition of lockdown on account of Covid-19 as the plying of the buses were stopped/restricted. It is alleged that the termination of the petitioner does not come within the purview of definition of retrenchment as per Section 2(oo) (bb) and question of applicability of the provisions of Section 25-G of the Act does not arise as well as Section 25-H of the Industrial Disputes Act is also not attracted and the petitioner is not entitled to any relief as claimed. It is asserted that the petitioner had not completed 240 days of continuous service in the preceding 12 months before termination or in any calendar year. The non renewal of daily contract was done owned to efflux of time of contract. However, the conciliation proceeding was affected and in pursuant to the conciliation the respondent asked the petitioner to come for contractual work *vide* registered letter issued by the respondent, but the petitioner did not come to join the service as such the petitioner is estopped by his own act, conduct, acquiescence and silence to file the present petition. It is asserted that despite the willingness and empathy of the respondent to call back the petitioner neither the petitioner join the service nor he fulfilled the required documentation. It is alleged that the petitioner is not entitled for reinstatement with back wages as well as benefits of seniority, continuity or any other consequential benefit. It is alleged that the facts of the demand notice were frivolous and vexatious however the respondent had shown empathy towards the petitioner and other persons. It is clarified that the petitioner was not a permanent employee but he was a contractual part-timer worker who had called on requirement basis only. Other parawise averments made in the petition were denied and it is prayed that the claim of the petitioner deserves to be dismissed.

4. In rejoinder preliminary objections were denied facts stated in the petition are reasserted and reaffirmed.

5. On the basis of the pleadings of the parties, the following issues were framed for adjudication and determination:—

1. Whether the act of termination of services of the petitioner *w.e.f.* 01-04-2018 by the respondent is/was illegal and unjustified, as alleged? ..*OPP.*

2. If issue no.1 is proved in affirmative, to what relief, the petitioner is entitled to? ..*OPP.*

3. Whether the claim petition is not maintainable, as alleged? ..*OPR.*

4. Whether the petitioner has no cause of action to file the present case, as alleged? ..*OPR.*

5. Whether the petitioner has not come to this Court with clean hands, as alleged. If so, its effect? ..*OPR.*

6. Relief.

6. The petitioner in order to prove his case has examined Shri Manthan Gupta, Senior Tax Assistant, Income Tax Office Dharamshala as PW1 who has produced on record balance sheet

of M/s New Prem Bus Service Nagrota Bagwan, District Kangra, H.P. from the year 2015-16 to 2021-22 Ext. PW1/A to Ext. PW1/G. Petitioner has also examined Shri Braham Dass, Enforcement Officer, EFP District Office, Palampur, District Kangra, H.P. as PW2 who has produced on record copy of registration letter of Prem Bus Service Ext. PW1/A, list of employees Ext. PW2/B, complaint Ext. PW2/D and Ext. PW1/E, observation memo Ext. PW2/F, enquiry statements Ext. PW2/G-1 to Ext. PW2/G-15, affidavit of Shri Pawan Kumar Ext. PW2/H, list of drivers and conductors Ext. PW2/J. He stated that a complaint was filed by Shri Rajat Chaudhary, learned Advocate with the department and inquiry was conducted in this complaint and the complaint was informed of the result *vide* letter Ext.PW2/K. Shri Naresh Kumar, Labour Inspector Labour Officer Dharamshala has examined by petitioner as PW3 who has produced on record copy of demand notice Ext. PW3/A, conciliation proceedings dated 28.9.2020 Ext. PW3/B, conciliation proceedings dated 29.9.2020 Ext. PW3/C, copy of proceedings dated 5.10.2020 Ext. PW3/D, copies of notices for the appearance of the parties dated 17.9.2020 Ext. PW3/E and Ext. PW3/F. Petitioner Shri Gopal Krishan in order to prove his case has produced on record his affidavit PW4/A wherein he has reiterated the facts as stated in the claim petition. Petitioner has also examined Shri Dheeraj Sharma, Legal Advisor-cum-Dealing Hand of New Prem Bus Service, Nagrota Bagwan, District Kangra as PW5 who has stated that he cannot show his appointment letter but he can produce on the next date of hearing. He stated that he is drawing the salary of Rs.10,000/- per month. He stated thta his salary has entered in the cashbook of employer every month. He further stated that the record of mandays chart is not produced and since the record was destroyed by termite and *vide* DD entry the information given to the police and the DD entry is Ext. PW5/A. He stated that he brought seniority list of drivers Ext. PW5/B and conductors Ext. PW5/C who are working with the respondent since 2021 onwards. He stated that he brought EPF record of New Prem Bus Service as Ext. PW5/D. He stated that the petitioner was not employee of the respondent as such no EPF was deducted with respect of the petitioner. He further stated that no appointment letter was ever issued to the petitioner by the respondent.

7. Respondent on the other hand has examined Shri Kishori Lal, Sub Post Master Sunehad, Tehsil Nagrota Bagwan as RW1 who has stated that since the record has been weeded out as per guidelines of the postal department copy of which is Ext. RW1/A. He stated that in case registered post/letter is sent and the same is not received back then the same is deemed to be delivered. He stated that registered post/letters is delivered in ordinary course of business within the period of 3 to 5 days within Himachal. Respondent has examined Shri Amit Chaudhary, Labour Officer, Kangra at Dharamshala as RW2 who has stated that the respondent has sent a letter dated 1.12.2020 as Ext. RW2/A wherein respondent had informed the office of the Labour Officer that the person's mention therein had not joined the duty. Respondent has further examined Shri Naresh Kumar, Labour Inspector, Kangra at Dharamshala as RW3 who has stated that the show cause Mark-A which was addressed to the petitioner is not available in their office. Respondent has examined RW4 Shri Pawan Kumar s/o Prem Chand, authorized representative of M/s New Prem Bus Service by way of affidavit Ext. RW4/A wherein he has reiterated the facts as stated in the reply. He has also produced on record copy of notice Ext. RW4/B and postal receipts Ext. Ext. RW1/C.

8. I have heard the learned AR/Counsel for the petitioner as well as learned Counsel for the respondent at length and records perused.

9. For the reasons to be recorded hereinafter while discussing the issues for determination, my findings thereon are as under:—

Issue No. 1 : Partly Yes

Issue No. 2 : Decided accordingly

Issue No. 3 : No

Issue No. 4 : No

Issue No. 5 : No

Relief. : Claim petition is partly allowed per operative portion of the Award.

REASONS FOR FINDINGS

Issue No.1

10. Petitioner Gajay Kumar has asserted in his affidavit that he was appointed as a conductor by the respondent in the year 2002 without any appointment letter or terms of employment. He continuously worked till March, 2018 and worked as conductor in the following buses belonging to respondent.

"HP68-7585, HP68-6665, HP68-0157 and HP68-0285"

11. In April, 2018 he was thrown out of his service as he was member of Brijeshwari Drivers/Conductors Society Kangra who had requested the respondent to accept the various demands of drivers and conductors who were members of the society working with the respondent.

12. Respondent witness Shri Pawan Kumar, RW4 has stated that petitioner was only engaged on the requirement basis from time to time, part-time basis and contractual basis. He asserts that petitioner was not a workman, never engaged on long term contract basis nor he was on the rolls of respondent. Thus according to respondent there was no relationship of employer and employee between the respondent and petitioner. It is also asserted that no appointment letter was issued to the petitioner since he was never engaged on regular contract basis. He was only engaged on day contract or on requirement basis. The record pertaining to the petitioner had been destroyed and matter was reported to police. The rapt Ext. PW5/A is produced on record by PW5 Shri Deeraj Sharma, Legal Advisor-*cum*-Dealing Hand of New Prem Bus service. PW5 Shri Dheeraj Sharma has deposed that mandays chart of petitioner cannot be produced as the record till year 2020 has been destroyed by termite. Pertinent to mention that this fact does not find mention in pleading on behalf of respondent. Learned counsel for the respondent has submitted that matter was compromised before the Labour-*cum*-Conciliation Officer and respondent had agreed to engaged the petitioner on similar post i.e. conductor, part-time casual basis but the petitioner had not returned to work. Petitioner has admitted that he has not produced saving pass book whereby he received payment from respondent. The petitioner has also denied that his EPF was not deducted but he failed to produce any record to support his contention. Similarly petitioner has also asserted that he was paid Rs.82/- per day and total salary of Rs.2460/- per month but no such record of payment is produced by the petitioner. Learned counsel for the respondent has submitted that the petitioner was merely a part-time, casual conductor and never completed 240 days of service. It is argued that except oral statement of petitioner there is no basis for concluding that he had completed 240 days of continuous work in any calendar year. Learned counsel has emphasized that onus to prove the 240 days of continuous service of the petitioner is primarily on the petitioner who asserts this fact. Learned counsel has further emphasized that this court cannot presume the status of petitioner under Section 25 Clause F of the Industrial Disputes Act, 1947 without any cogent proof led by petitioner regarding his completion of 240 days of service with the respondent. Hon'ble Supreme Court in **R.M. Yellatti vs. The Asst. Executive Engineer, 2006 1 SCC 106** has held as under:—

"Analyzing the above decisions of this court, it is clear that the provisions of the Evidence Act *in terms do not apply to the proceedings under* section 10 *of the Industrial Disputes Act. However, applying general principles and on reading the aforestated judgments, we find that this court has repeatedly taken the view that the burden of proof is on the claimant to show that he had worked for 240 days in a given year. This burden is discharged only upon the workman stepping in the witness box. This burden is discharged upon the workman adducing cogent evidence, both oral and documentary. In cases of termination of services of daily waged earner, there will be no letter of appointment or termination. There will also be no receipt or proof of payment. Thus in most cases, the workman (claimant) can only call upon the employer to produce before the court the nominal muster roll for the given period, the letter of appointment or termination, if any, the wage register, the attendance register etc. Drawing of adverse inference ultimately would depend thereafter on facts of each case. The above decisions however make it clear that mere affidavits or self-serving statements made by the claimant/workman will not suffice in the matter of discharge of the burden placed by law on the workman to prove that he had worked for 240 days in a given year. The above judgments further lay down that mere non-production of muster rolls per se without any plea of suppression by the claimant workman will not be the ground for the tribunal to draw an adverse inference against the management. Lastly, the above judgments lay down the basic principle, namely, that the High Court under* Article 226 *of the Constitution will not interfere with the concurrent findings of fact recorded by the labour court unless they are perverse. This exercise will depend upon facts of each case."*

13. Going by the above ratio laid down by the Hon'ble Supreme Court it is clear that initial burden to prove that the workman had worked for 240 days in a given year is on the workman. Relevant evidence would be appointment letter, salary receipt, bank statement or oral evidence of co-workers etc. RW4 Shri Pawan Kumar has admitted that when drivers and conductors were appointed no appointment letter was given and he also asserted that respondent does not give appointment letter to anyone. He also admitted that no such document was issued to the petitioner which would show that petitioner was called for work on requirement basis and on which dates. It is important to mention here that RW4 Shri Pawan Kumar has not denied that petitioner has worked with the respondent at any point of interval. PW4 Shri Gajay Kumar (petitioner) has stated that he was paid Rs.82/- per day and total payment of Rs.2460/- as salary. A specific suggestion is made to him that he was paid wages only. It is not the contention of the respondent that they were paying the petitioner through his bank account which would in this case make bank statement of petitioner a relevant proof regarding the receipt of payment made by the respondent. PW5 Shri Dheeraj Sharma has admitted that payment of a working day was made on said working day and PW4 Gajay Kumar has denied a suggestion that respondent prepared voucher on day to day basis. This voucher is an internal document and respondent had not asserted that any receipt was taken from workman. RW4 Shri Pawan Kumar has admitted that respondent maintained attendance register and payment register of its employees. He admits that EPF is applicable to respondent where 20 or more employees are employed. He has admitted that EPF is applicable to respondent. The contention of petitioner that respondent is operating 80 buses is not controverted in his cross-examination. On the one hand Shri Pawan Kumar s/o Shri Prem Chand sworn an affidavit Ext. PW2/H in the proceedings qua EPF of petitioner stating that petitioner is not his employee. On the other hand he has admitted in his cross-examination that whenever need arose petitioner was called for work. The definition of workman under the Industrial Disputes Act, 1947 is given under Section 2(s) as follows:—

"["workman" means any person (including an apprentice) employed in any industry to do any manual, unskilled, skilled, technical, operational, clerical or supervisory work for hire or reward, whether the terms of employment be express

or implied, and for the purposes of any proceeding under this Act in relation to an industrial dispute, includes any such person who has been dismissed, discharged or retrenched in connection with, or as a consequence of, that dispute, or whose dismissal, discharge or retrenchment has led to that dispute, but does not include any such person- [Substituted by Act 46 of 1982*, Section 2, for Cl. (s) (w.e.f. 21.8.1984).]*

*(i) who is subject to the Air Force Act, 1950 (*45 of 1950*), or the Army Act, 1950 (*46 of 1950*), or the Navy Act, 1957 (*62 of 1957*); or*

(ii) who is employed in the police service or as an officer or other employee of a prison, or

(iii) who is employed mainly in a managerial or administrative capacity, or

(iv) who, being employed in a supervisory capacity, draws wages exceeding [ten thousand rupees] per mensem or exercises, either by the nature of the duties attached to the office or by reason of the powers vested in him, functions mainly of a managerial nature.]"

14. It appears from the above definition of workman under Industrial Disputes Act does not specifically distinguish between the part-time, casual or temporary workman as compared to a permanent workman.

15. PW5 Shri Dheeraj Sharma, Legal Advisor-*cum*-Dealing Hand of respondent and RW4 Shri Pawan Kumar employer have admitted that they participated in conciliation proceedings and they had agreed to reinstate the petitioner. Letter in this regard was issued to the petitioner to join but he did not return back. It appears from the above evidence that respondent had taken dual stand qua status of petitioner being his employee/workman before different authorities for unexplained reason. Though he has clearly admitted that the petitioner had worked with respondent from time to time but no record of petitioner's employment has been produced on behalf of the respondent. Hon'ble High Court of Calcutta in **Hooghly Infrastructure Pvt. Ltd. vs. Sk. Alam Ismail & Ors. as WPA28770 of 2024** has held in paras 15,16 and 17 as follows:—

"15. Section 25D of the Industrial Disputes Act, lays down:- "25D. Duty of an employer to maintain muster rolls of workmen.- *Notwithstanding that workmen in any industrial establishment have been laid-off, it shall be the duty of every employer to maintain for the purposes of this Chapter a muster-roll, and to provide for the making of entries therein by workmen who may present themselves for work at the establishment at the appointed time during normal working hours."*

16. In Ranbir Singh vs S.K. Roy, Chairman, Life Insurance, in Misc. Application No. 1150 of 2019, decided on 27 April, 2022*, the Supreme Court held:- "……..25. It is settled principle of law that while considering the order/judgment of Constitutional Court, this Tribunal is required to keep in mind entire spectrum of the orders as well as background of the case. It is not proper to cull out a single para or a sentence from the order/judgment so as to defeat the very purpose of the order so passed by Hon'ble Supreme Court. If the orders dated 11/5/2018, 7/9/2018 and 10/9/2018 are taken into consideration, it is crystal clear that claims of all such workmen and Union/s who worked as Badli workers during the period from 20/5/1985 to 4/3/1991 are required to be considered by this Tribunal. Although I am in full agreement with the submission made on behalf of the PART B Management/LIC that initial onus is always upon the workmen concerned to prove that they were in the*

employment of the Management at the relevant time, however 9 not this Tribunal cannot ignore the fact that UC has filed on record any document/record relating to employment of various workmen rather has simply taken a plea that same being old record is not traceable." 22 The Dogra Report noted that LIC had admitted that 321 workers were found to be eligible for absorption in terms of the Srivastav Award. The report found fault with LIC for making contradictory claims that 321 workers were eligible for absorption when the records of workers were allegedly old and not traceable. The Dogra Report drew an adverse inference against LIC for having failed to maintain the records in pursuance of the burden cast upon it by Section 25-D of the ID Act, particularly when the reference was pending since 1991. Paragraph 29 of the report is extracted below:

"29) During the course of arguments as well as in the reply filed on behalf of the Management/LIC, it is clear that Management has admitted that till date 321 Nos. of employees were found to be eligible in terms of the Award and they were considered eligible for absorption. It is not understandable to this Tribunal as to what were the basis for the Management/LIC for coming to the conclusion that only 321 Nos. of workmen/employees were found to be eligible and covered by the Award of CGIT in ID case No.27/1991, when the Management has come up with a plea that record relating to the workmen being old record is not traceable. It is worthwhile to mention here that Section 25 D of the ID Act specifically provides that it is the duty of every Employer to maintain a muster roll and to provide for the making of entries therein by the workmen who may present themselves for work at the establishment. This Tribunal has to keep in mind a vital fact that since the reference bearing ID No.27/1991 is pending before various Courts since 1991, the Management/LIC was/is required to keep the record in safe custody when the case of such a huge magnitude was PART B pending before the Courts. In such circumstances, this Tribunal is constrained to draw adverse inference 10 against the management." 23 Based on the above hypothesis, the report proceeded to decide "prima facie" the claims of the Unions and individual workers. While taking up the claims made by the All India Life Insurance Employees Association and its affiliate, Life Insurance Employees Association, Delhi, the report notes that 6998 claims had been filed (as contained in Annexure A). Upon scrutiny, LIC drew the attention of the CGIT to the fact that 3592 duplicate entries were found in the claims which were submitted (as contained in Annexure A-1). Noting that the "Unions have not seriously disputed the same", the Dogra Report concludes that "such claimants are to be given benefit of absorption only once". The Dogra Report also notes that workers who had started working beyond the cut-off date of 4 March 1991 would not be covered in the enquiry. This observation in the Dogra Report was in view of the order of this Court in the contempt proceedings arising out of the review of TN Terminated Employees Association (supra) on 7 September 2018, which had specifically observed that whether the benefit of the Srivastav Award should be given to those who had been engaged as badli workers after 4 March 1991 was a matter for interpretation by this Court. Hence, for the time being, CGIT had been directed to limit its enquiry only to the claims for the period between 20 May 1985 and 4 March 1991 (as contained in Annexure A-2). In this context, the Dogra Report held that those workers who had commenced work after 4 March 1991 would not be covered by its enquiry.

In State of Haryana & Ors. etc. etc. v. Piara Singh & Ors. etc. etc., (JT 1992(5) S.C. 179), the Supreme Court indicated how regularization of adhoc/temporary employees in Government and Public Sector Undertakings should be effected. While PART D laying down the guidelines in this behalf, this court observe in paragraph 43 as under:—

"The normal rule, of course, is regular recruitment through the prescribed agency but exigencies of administration may sometimes call for an adhoc or temporary 11 appointment

to be made. In such a situation, effort should always be to replace such an adhoc/temporary employee by a regularly selected employee as early as possible.

Such a temporary employee may also compete along with others for such regular selection/appointment. If he gets selected, well and good, but if he does not, he must give way to the regularly selected candidate.

The appointment of the regularly selected candidate cannot be withheld or kept in abeyance for the sake of such an adhoc/temporary employee."……"

17. In the present case, the respondent no. 1 has served continuously as a badli/casual worker for 37 years in permanent posts and has produced documents in support. The petitioner/company was bound to produce the documents as required to be maintained under Section 25D of the Act. (Ranbir Singh vs S.K. Roy, Chairman, Life Insurance, (Supra))

16. Learned Counsel for the petitioner has pointed out that an application under Section 11 Clause 3 of the Industrial Disputes Act, 1947 was filed on behalf of petitioner seeking the respondent to produce the mandays chart of petitioner, attendance register and other documents relating to employment of petitioner mentioned in the application. Respondent had claimed in the deposition that record of mandays chart and all register were destroyed by termite regarding which information was made to police *vide* DD entry Ext. PW5/A. Apposite to mention that there is no specific pleading on behalf of respondent to this effect. PW5 Shri Dheeraj Sharma could not produce list of record which has been destroyed by termite and DD entry Ext. PW5/A also does not mention what record and for which time period was destroyed by termite. Neither the informant Shri Surinder Kumar as mentioned in the DD entry nor proprietor Shri Pawan Kumar, nor the incharge of record Lokesh Kumar had specifically stated particulars of record destroyed. The dealing hand/incharge Lokesh has not been examined in the court. PW5 Shri Dheeraj Sharma has admitted that Shri Lokesh Kumar is still working with the respondent. There is no medical record produced to prove that this witness was unable to appear and depose in the court qua the record which has been destroyed. Surprisingly the rapat is dated 3.11.2020 and demand notice Ext. PW3/A is dated 27.10.2020. The notice from Labour-*cum*-Conciliation Officer is sent to the office of respondent dated 17.9.2020. Conciliatory process continued from 28.9.2020 to 5.10.2020 Ext. PW3/B and Ext. PW3/C. The above facts unfolding from the oral and documentary evidence clearly suggest that the DD entry qua destruction of record was subsequent in time to conciliation between the parties.

17. As held by Hon'ble Supreme Court the fact of case would determine option to be exercised by Labour Court to draw an adverse inference under Section 106 of Indian Evidence Act, 1872 implying that petitioner had infact worked for requisite period under Section 25-B of Industrial Disputes Act, 1947.

18. In the present case the following facts are revealed from the evidence on record that (i) the petitioner was employed by respondent at different interval of time (ii) RW4 Shri Pawan Kumar admitted that no such document was issued to the petitioner to show his employment with the respondent. (iii) Record pertaining to employment i.e. muster roll, attendance register and wage register etc. were not produced. (iv) The record was allegedly destroyed but no particulars of destroyed record has been produced and destruction of the record was reported after the dispute was arose. No efforts appear to have been taken by the respondent to reconstruct the record and no photographs of the destroyed record have been produced. (v) There are contradiction in the affidavit sworn by the respondent qua status of petitioner before the proceeding under EPFO and the proceeding before this court as well as stand before Labour-*cum*-Conciliation Officer. (vi) The

petitioner has asserted that he was employed continuously by the respondent for 240 days since the year 2002. (vii) petitioner was not possessing any document to prove the number of days for which he has worked with the respondent though the fact that the petitioner had worked with the respondent at different intervals is not disputed. (viii) The petitioner was issued notice to join his duties by the respondent. (ix) Conciliatory process shows that respondent had agreed to provide continuous service to the petitioner thereafter. (x) The documents sought by petitioner from the custody of respondent including mandatory record under Section 25-D of Industrial Disputes Act, 1947 is not produced on pretext that it was destroyed by termite.

19. In the light of above circumstances what better evidence could have been produced by the petitioner to show 240 days of work/continuous employment is unimaginable. Learned counsel for the petitioner has submitted that co-workers of petitioner already working with respondent were not willing to appear before the court and depose in his favour fearing loss of employment. In-fact once the petitioner was not provided any document including appointment letter, wage receipt by the respondent onus would surely shift towards the respondent to prove that petitioner was merely casual temporary, contractual worker who had not worked continuously with the respondent.

20. It is also important to observe that respondent had not disclosed about the destruction of record till the pendency of conciliation proceedings and merely debunked the record in water. There is no evidence of the fact that enquiry or disciplinary action was initiated against the dealing hand responsible for maintaining the record intact. Respondent failed in his duty to safeguard the mandays record pertaining to workman which ultimately impacts the legal right of the workman under different labour laws. In these circumstances the non production of the record by the respondent specifically the muster rolls, attendance records, log book of buses attended by the petitioner would definitely raise presumption that respondent had not maintained such record and the excuse put forward by them was not bona fide.

21. The continuous stance of respondent that petitioner was casual, temporary workman called on need basis is a clear violation of provisions of Industrial Disputes Act, 1947 as it amount to unfair labour practice under entry No.10 of Vth Schedule which reads as follows:—

> "10) To employ workmen as "badlis", casuals or temporaries and to continue them as such for years, with the object of depriving them of the status and privileges of permanent workmen".

22. The work of driver and conductor is not a part-time job. Respondent failed to maintain and preserve the record of attendance and payment of petitioner also points towards a deliberate attempt to deprive him of status and privilege of permanent workman.

23. RW4 Shri Pawan Kumar has admitted that *vide* Ext. PW3/D he has agreed to provide continuous service to petitioner and he also admitted that he had not called the petitioner in writing. Subsequently he has mentioned about notice Ext. RW4/B along-with receipt Ext. RW4/C. Learned counsel for the respondent has vehemently argued that the receipts clearly shows that notices have been duly served to the petitioner as the registered letters were not received back. PW4 Shri Gajay Kumar has however denied that he had not joined his service in accordance with the agreement. He has denied that he received any notice. Even if presumed that the notice/office order was received, the notice itself described the consequence of not joining "necessary action shall be taken as per HP Model Standing Order Act". RW4 Shri Pawan Kumar has admitted that no such disciplinary proceedings were ever initiated against the petitioner by the respondent. Strangely enough,

respondent agreed to provide continuous service and issued show cause notice to the petitioner on the other hand denies that petitioner was an employee of the respondent. Learned AR/Counsel for petitioner has time and again pointed out that respondent has suppressed record of petitioner's employment. There is no record to show compliance of Section 25- F (a), (b) and (c) of the Industrial Disputes Act, 1947. In the circumstances discussed above the termination of the services of petitioner was in clear violation of the provisions of Section 25 Clause F (a), (b) and (c) of the Industrial Disputes Act, 1947.

24. It is submitted on behalf of the petitioner that after his termination his juniors were retained in service and new hands were employed by respondent. No specific evidence to this effect has been produced. RW4 Shri Pawan Kumar has admitted that after the conciliation proceedings some of the workmen had been given joining by the respondent however there is no seniority list which would help this court to determine that these persons were junior to the petitioner. Consequently the respondent would be held liable for the violation of the provisions of Section 25 Clause F of the Industrial Disputes Act, 1947 hence issue no.1 is partly decided in the favour of the petitioner.

Issue No. 2

25. The petitioner has claimed that his services were illegally terminated. In the claim petition the petitioner has prayed for reinstatement of his service along-with all consequential benefits, seniority and continuity of service, full back wages from the date of his termination. It is clear from evidence on record that the date on which the petitioner was appointed by the respondent does not appear to have been proved by way of evidence. It is also observed while deciding issue no.1 above that respondent has failed in their duty to maintain the relevant record of the petitioner which would have entitled him for benefit in accordance with record. In these circumstances the petitioner is held entitled for reinstatement with the respondent on daily wage basis. He (petitioner) is also held entitled to lump sum compensation of Rs.2 lakh to be paid by the respondent. This issue is decided accordingly.

Issues No. 3, 4 and 5

26. The onus of proving these issues was on the respondent. The maintainability of claim was primarily challenged on ground that the petitioner was merely a part-time, casual, temporary workman who was only called on need basis. Nonetheless the workmanship of petitioner has not been denied. Respondent has failed to keep attendance and mandays record of petitioner. Considering the conciliation proceedings before Labour-*cum*-Conciliation Officer and the evidence which has been produced before this court the present claim is maintainable and the petitioner is not estopped by his act and conduct to file the claim petition. Hence issues no. 3, 4 and 5 are decided in the favour of the petitioner and against the respondent.

RELIEF

27. In view of my discussion on the issues no. 1 to 5 above, the claim petition succeeds and is partly allowed. The petitioner is held entitled for reinstatement with the respondent on daily wage basis forthwith. He (petitioner) is also held entitled to lump sum compensation of Rs.2 lakh to be paid by the respondent within 60 days of publication of award. Parties are left to bear their costs.

28. The reference is answered in aforesaid terms. A copy of this Award be sent to the appropriate Government for publication in the official gazette. File after due completion be consigned to the Record Room.

Announced in the open Court today, this 15th day of January, 2026.

Sd/-
(PARVEEN CHAUHAN),
Presiding Judge,
Labour Court-cum-*Industrial Tribunal,*
Kangra at Dharamshala (H.P.).

IN THE COURT OF PARVEEN CHAUHAN, PRESIDING JUDGE, LABOUR COURT-CUM-**INDUSTRIAL TRIBUNAL, KANGRA AT DHARAMSHALA (H.P.)**

Reference No. : 12/2025

Date of Institution : 3-11-2023

Date of Decision : 15-1-2026

Shri Naresh Kumar s/o Shri Dharam Chand, r/o Ward No. 3, V.P.O. Bathu, Tehsil Haroli, District Una, H.P. ..*Petitioner.*

Versus

1. The Director, Industries, Department of Industries Govt. of H.P. Shimla-171002

2. The Joint Director, District Industries Centre Una, District Una, H.P.-174303

..*Respondents.*

Direct Claim Petition Section 2 (A) read with Section 10 (1) of the Industrial Disputes Act, 1947

For the Petitioner : Sh. N.L. Kaundal, Ld. AR
: Sh. Vijay Kaundal, Ld. Adv.

For Respondent(s) : Sh. B.C. Katoch, Ld. Dy. D.A.

AWARD

This is a direct claim petition under Section 2-A read with Section 10 (1) of the Industrial Disputes Act, 1947. The brief facts as stated in the claim petition are that the services of applicant/petitioner were appointed by the Joint Director respondent no.2 in the capacity of pump operator *vide* appointment letter no.ind/U/IADA/2019 dated 1.5.2020 and the applicant/petitioner continued to discharge his duties to the entire satisfaction of respondents no.1 and 2 till 15.5.2015 but he was engaged for water supply in Bathu Pump House to the industrial area. The applicant has asserted that he was discharging his duties taking of water meter reading before 5th of every month and supply of water consumption bill to the unit. He replaced the duty against the other worker when they were on leave and petitioner was also assigned the duties by respondent no.2 to collect room charges of guest house as fixed by the respondent at Bathri. He deposited the same with the bank on the directions of the respondent. The work and conduct of the applicant was satisfactory and upto the mark and he did not give any chance for any alleged misconduct w.e.f. 1.5.2020 to

15.5.2023. During this period no show cause notice was served to the petitioner, neither any inquiry was got conducted under Industrial Employment Standing Order Act, 1946. The petitioner was however not allowed to resume his duty w.e.f. 15.5.2023 by respondent no.2 and his services were unlawfully terminated. At the time of his termination no termination order was issued and neither any retrenchment compensation as mandatorily required under Section 25-F (a) and (b) of the Industrial Disputes Act, 1947 was paid. It is therefore submitted that the non compliance of the same resulted in the termination being ab-initio null and void. The facts regarding termination of service of petitioner was also not intimated to the Labour Commissioner, Himachal Pradesh *vide* provisions of Section 25-F Clause (c) of the Industrial Disputes Act, 1947. According to petitioner he had completed more than 240 days in each and every calendar year as well as 12 preceding months from the date of alleged termination. He was appointed against permanent post as pump operator and H.P. Industrial Employment Order Act, 1946 is applicable to him. After the termination of the services of petitioner services of one Kamal Sandhu, cook and Jeevan Kumar, Chowkidar were utilized by the respondents. Petitioner had approached the respondent no.2 to provide duty to him but respondent no.2 categorically stated to the petitioner that he has received message from Director Industries that his services cannot be engaged in future. Due to this fact petitioner raised demand notice under Section 2-A Clause 2 of the Industrial Disputes Act and the copy of the same was forwarded to Labour Inspector-*cum*-Conciliation Officer Bela Bathri. Conciliation Officer tried to settle the dispute amicably but respondent no.2 had not filed reply to the demand notice neither settled the dispute. The dispute remained pending for 45 days and the direct claim was preferred before this court. The petitioner has prayed that his illegal verbal termination order dated 15.5.2023 may be set aside and respondents no.1 and 2 be directed to reinstate his service with seniority, continuity of service, back wages along-with all other consequential benefits.

2. In reply filed on behalf of respondents no.1 and 2 preliminary objections qua maintainability, locus standi, suppression of material facts, mis-joinder and non-joinder of necessary parties have been raised. On merits, the respondents have submitted that a meeting of the managing committee was held on 31.1.2019 under the chairmanship of Shri Anshul Dhiman, General Manager, DIC Una-*cum*-Chairman IADA, DIC office Una, H.P. where it was unanimously decided that essential services in the industrial area shall be done on outsource basis whenever it is required by IADA. On 28.2.2019 again meeting of managing committee was held under Chairmanship of Shri Anshul Dhiman, General Manager DIC Una and Chairman intimated to the house that all essential services will be done on outsource basis. Respondent no.2 executed memorandum of understanding in which one Shri Kishori Lal Sharma, Contractor, Rotary Chowk, Prem Nagar, Ward No.1, Una Town, District Una H.P. as Man Power/Contract Labour Service Provider for the supply of manpower to the office of respondent no.2 in the year 2019. Memorandum of understanding contained terms and conditions of posts likely to be filled up and post of pump operator was amongst them. Respondent no.2 executed memorandum of understanding with Sky Light Man Power and Hospitality Service for supply of manpower on outsource basis to respondent no.2. Sky Light Man Power and Hospitality Service appointed petitioner for the purpose of assigning work as directed by respondent no.2 on outsource basis. The contractor Kishori Lal Sharma provided services of petitioner with respondent no.2 and respondent no.2 had only assigned and attributed the work of the operation of pump house to the petitioner.

3. It is denied by the respondent that the work and conduct of the petitioner was satisfactory and asserted that petitioner was engaged through outsource company at different point of time who have not been arrayed as party by the petitioner. It is asserted by respondent that there was no employer employee relationship between the petitioner and respondents as the relationship of employer vested with one Shri Kishori Lal Sharma and/or Sky Light Man Power and Hospitality Service. There was no due of salary/wages of the petitioner left with respondent no.2 and it was the company free to make decision regarding posting and withdrawal of work from various

departments including the department of respondents. The petitioner was not an employee of the respondents hence no charge-sheet was required to be served on him. Respondents have denied that the services of the petitioner were discontinued on 15.5.2023 unlawfully and without any compensation. They also denied completing of 240 days of work in each calendar year. It is however asserted that all rights engagement, disengagement and withdrawal of work of the petitioner lied with outsource company i.e. Kishori Lal Sharma or Sky Light Man Power and Hospitality Service. After May, 2023 petitioner was not sent back by the outsource company to the work assigned to him. It is however submitted that respondent no.2 neither appointed the petitioner as permanent operator nor terminated him from his work as same power was vested in the M/s Sky Light Man Power and Hospitality Service merely assigning of duty of petitioner would not seem to be appointment letter by the respondents. They have denied the direct relationship with the petitioner in any manner. In the light of above facts submitted in the reply respondents prayed that claim deserves to be dismissed as against the present respondents.

4. In rejoinder preliminary objections were denied facts stated in the petition are reasserted and reaffirmed.

5. On the basis of the pleadings of the parties, the following issues were framed for adjudication and determination:—

1. Whether the alleged verbal termination of services of the petitioner *vide* order dated 15.5.2023 is liable to be declared illegal and hence null and void, as alleged? ..*OPP.*

2. If issues No.1 is proved in affirmative, whether the petitioner is entitled to reinstatement with seniority, continuity, full back wages and all other consequential service benefits as claimed? ..*OPP.*

3. Whether the claim petition is not maintainable, as alleged? ..*OPR.*

4. Whether the petitioner has no locus standi to file the present claim, as alleged? ..OPR.

5. Whether the petitioner has not come to the Court with clean hands and has suppressed the material facts, as alleged. If so, its effect? ..*OPR.*

6. Whether the present claim petition is bad for mis-joinder and non-joinder of the necessary party, as alleged? ..*OPR.*

7. Relief.

6. In order to prove his case the petitioner has produced on record his affidavit Ext. PW1/A along-with copy of letter issued and signed by Chairman IADA Tahliwal Ext. PW1/B, copy of demand notice Ext. PW1/C and copy of certificate issued by Labour Inspector, Tahliwal Ext. PW1/D.

7. Respondents have examined Shri Anshul Dhiman, Joint Director (Industries), District Industry Centre Una District Una, H.P. by way of affidavit Ext. RW1/A wherein he reiterated the facts mentioned in the reply. In addition to the affidavit the following documents have been produced by the respondents. Copy of attendance record Ext. RW1/B, copy of draft Model Bye-Laws Ext. RW1/C, copy of proceedings of meeting dated 31.1.2019 Ext.RW1/D, copy of memorandum of understanding/Agreement dated 27.3.2019 Ext. RW1/E, copy of memorandum of understanding/Agreement dated 1.9.2022 Ext. RW1/F, copy of letter regarding assigning of duties Ext. RW1/G, copy of letter regarding payment salary dated 1.5.2020 Ext. RW1/H, copy of letter

regarding payment of salary 3.6.2020 Ext. RW1/G1, copy of letter regarding payment salary dated 7.7.2020 Ext. RW1/G2, copy of letter regarding payment salary dated 4.8.2020 Ext. RW1/G3, copy of letter regarding payment salary dated 2.9.2020 Ext. RW1/G4, copy of letter regarding payment salary dated 5.10.2020 Ext. RW1/G5, copy of letter regarding payment salary dated 4.11.2020 Ext. RW1/G6, copy of letter regarding payment salary dated 3.12.2020 Ext. RW1/G7, copy of letter regarding payment salary dated 4.1.2020 Ext. RW1/G8, copy of letter regarding payment salary dated 3.2.2021 Ext. RW1/G9, copy of letter regarding payment salary dated 3.3.2021 Ext. RW1/G10, copy of letter regarding payment salary dated 5.4.2021 Ext. RW1/G11, copy of letter regarding payment salary for the month of April Ext. RW1/G12, copy of letter regarding payment salary dated 7.6.2021 Ext. RW1/G13, copy of letter regarding payment salary dated 5.7.2021 Ext. RW1/G14, copy of letter regarding payment salary dated 14.8.2021 Ext. RW1/G15, copy of letter regarding payment salary dated 7.9.2021 Ext. RW1/G16, copy of letter regarding payment salary dated 10.10.2022 Ext. RW1/G17, copy of letter regarding payment salary dated 4.11.2022 Ext. RW1/G18, copy of letter regarding payment salary dated 6.12.2022 Ext. RW1/G19, copy of letter regarding payment salary dated 9.1.2023 Ext. RW1/G20, copy of letter regarding payment salary dated 9.2.2023 Ext. RW1/G21, copy of letter regarding payment salary dated 6.3.2023 Ext. RW1/G22, copy of letter regarding payment salary dated 3.4.2023 Ext. RW1/G23, copy of letter regarding payment salary dated 6.6.2023 Ext. RW1/G24 and copy of letter dated 10.5.2023 Ext. RW1/H.

8. I have heard the learned AR/Counsel for the petitioner and learned Dy. D.A. for the respondents at length and records perused.

9. For the reasons to be recorded hereinafter while discussing the issues for determination, my findings thereon are as under:—

Issue No. 1	: Partly yes
Issue No. 2	: Decided accordingly
Issue No. 3	: No
Issue No. 4	: No
Issue No. 5	: Partly yes
Issue No. 6	: Partly yes
Relief.	: Claim petition is partly allowed per operative portion of the Award.

REASONS FOR FINDINGS

Issue No.1

10. The petitioner has challenged his verbal termination dated 15.5.2023 by the present respondents who are the Director of Industries and Joint Director of Industries. He has stated in his affidavit that he was appointed as a pump operator *vide* letter No.Ind/U/IADA/2019 dated 1.5.2020. He has stated that he was doing the work of meter reading and he worked for 240 days per year since the date of his appointment. He also stated that he carried out his work with utmost honests neither any notice was issued to him. At the time of his termination respondents violated the mandatory provisions of the Industrial Disputes Act. In his cross-examination he has admitted that *vide* Ext. PW1/B industrial departmental assigned him duties on outsource basis. He has admitted

that in every appointment letter pay has been mentioned. He admitted that he received salary in his bank account. He also admitted that he has not produced record to show who deposited the salary in his account. He has further admitted that department has never paid salary to him.

11. Respondents have put forward the case through Shri Anshul Dhiman RW1 who has deposed on oath that the management committee had decided unanimously that in future all the essential services in the industrial area shall be done on outsource basis as and when required by IADA. The meeting was held on 28.2.2019 and 31.12.2019 thereafter memorandum of understanding was executed by Shri Kishori Lal Sharma, Contractor as Man Power/Contract Labour Service Provider to supply manpower to the office of respondent no.2 for the year 2019. Respondent no.2 again executed memorandum of understanding/Agreement with Sky Light Man Power and Hospitality Service for supplying manpower on outsource basis to respondent no.2. Sky Light Man Power and Hospitality Service appointed the petitioner for the purpose of assigning work by respondent no.2. The various memorandum understandings have been produced on record by the respondents.

12. The case of the respondents regarding the appointment of petitioner through outsource company has been accepted by the petitioner in his cross-examination. What was being referred as appointment letter is admitted to be regarding assignment of duty by department on outsource basis. Petitioner however has subsequently shown his ignorance and also denied that Sky Light Man Power and Hospitality Service was not intentionally included as party by him in the present case. He expressed his ignorance to the fact that respondents had made payment to Sky Light Man Power and Hospitality Service and also denied that he was not an employee of respondents. Certain documents produced on record by the respondents have to be carefully perused before determining the direct employer and employee relationship between the petitioner and respondents. Copy of meeting held on 31.1.2019 between the members of the IADA and Industries Association, Tahliwal Industrial Area as Ext. RW1/D. The proceedings of the meeting show that there was unanimous agreement on outsourcing essential services of IADA. Memorandum of understanding Ext. RW1/E was executed in 2019 between the Principal Employer Industrial Area Development Agencies Una, District Una H.P. through its General Manager and Shri Kishori Lal Sharma, Government Contractor, Rotary Chowk, Prem Nagar, Ward No.1, Una Town. Similarly a memorandum of understanding was also executed on 1st September, 2022 between Industrial Area Development Agencies Una through its General Manager and MD, Skylight Manpower & Hospitality Services Ext. RW1/F w.e.f. 1st September, 2022. This memorandum of understanding was applicable to till 31.8.2023.

13. It is alleged by the petitioner that he was terminated w.e.f. 15.5.2023. Letter Ext. RW1/B was issued to petitioner by respondents regarding assigning of duties on outsource basis. The documents Ext. RW1/G1, Ext. RW1/G2, Ext. RW1/G3, Ext. RW1/G4, Ext. RW1/G5, Ext. RW1/G6, Ext. RW1/G7, Ext. RW1/G8, Ext. RW1/G9 upto Ext. RW1/G24 clearly shows that the salary which was being paid to the workers by Chairman, IADA, Talhilwal-*cum*-General Manager District Industries Centre, Una was paid directly through RTGS in the bank account of outsource company. Petitioner has admitted that he has not produced any bank account documents to show direct payment of salary to him by the present respondents. It is clear that the petitioner was assigned the work by the Principal Employer respondents no.1 and 2 however he was appointed and was being paid his salary by the outsource agency which entered into memorandum of understanding with respondents no.1 and 2 on yearly basis for supply of workmen regarding the work to be assigned them by the present respondents. The employer employee relationship between the petitioner and the present respondents is however not clearly established though it is clear that petitioner was working under the direction of the present respondents as a workman on outsource basis.

14. It is important to peruse the provisions of the memorandum of understanding which was executed between the present respondents and the respective outsource agency. The memorandum of understanding Ext. RW1/E and RW1/F have been executed on similar terms though different agency. Clause no.5 of the memorandum of understanding reads as follows:—

> "The persons to be engaged as required shall be provided in consultation with the IADA. Any person engaged without consulting IADA shall not be entertained". Similarly Clause 25 reads as follows:—
>
> "That the Principal Employer will ensure that their actions toward the contract laborer's fall within the boundaries of fair labour practice". Clause 26 read as follows:—
>
> > "It is also desirable that the principal employer gives a prior notification to the service provider whenever there is a requirement of workmen and also to specify the number of skilled, semi-skilled or unskilled workmen that are required?"

15. In accordance with the above conditions of memorandum of understanding executed between respondent and the service providers and also in accordance with the provisions of Contract Labour (Regulation and Abolition) Act, 1970 it was incumbent upon by the respondents no.1 and 2 being principal employer to ensure that the outsource agency/company complied with all the provisions of labour laws and payment of wages to its employee who are offering service to the principal employer. Letter Ext. RW1/H clearly show that on 10.5.2023 Managing Director of M/s Skylight Manpower & Hospitality Services was informed by the Joint Director, Industries to urgently reduced one person from amongst the workers of IADA. The alleged termination of petitioner occurred on 15.5.2023. It was the duty of respondents to ensure that while dispensing with the services of worker who was rendering his services on outsource basis the outsource company should have complied with the mandatory provisions of Section 25-F Clause (a), (b) and (c) of the Industrial Disputes Act, 1947. Clauses of Memorandum of Understanding also clearly provided for prior notification by the principal employer. Thus the respondents in the present case had abruptly asked for terminating the services of petitioner without ensuring that the service provider had complied with the mandatory provisions of the Industrial Disputes Act. There is nothing to show that any prior notice was issued to the service provider or to the petitioner before dispensing with the services of petitioner. There is no evidence to show the compliance of Section 25-F (a), (b) and (c) of the Industrial Disputes Act, 1947. In these circumstances the termination of the services of petitioner was not in compliance with the provisions of the Industrial Disputes Act and issue no.1 is decided in the favour of petitioner.

Issue No.2

16. The petitioner in the present case had approached this court claiming that he was appointed by respondents no.1 and 2. Facts to the contrary have emerged from documentary and oral evidence produced this court. It is established that petitioner was appointed by the present respondents through outsource agency. In these circumstances even if the termination of the petitioner was not in compliance with the provisions of the Industrial Disputes Act, 1947, the order of reinstatement of the petitioner cannot be granted in absence of the outsource agency being made a party in this case. The petitioner however raised claim against respondents no.1 and 2 who have failed to comply with the mandatory provisions of memorandum of understanding executed between them and outsource agency as well as precaution under Contract Labour (Regulation and Abolition) Act, 1970. In these circumstances petitioner is held entitled to lump sum compensation of Rs.2 lakh from the respondents no.1 and 2, hence this issue is decided accordingly.

Issue No. 3 & 4

17. Maintainability was primarily challenged on the ground of absence of employer employee relationship between respondents and the petitioner. It however emerges that the respondents have failed to comply with the mandatory provisions of the Contract Labour (Regulation and Abolition) Act, 1970 and also did not comply with the mandatory provisions of Industrial Disputes Act hence the present claim is maintainable and the petitioner has enforceable cause of action hence issues no. 3 and 4 are decided against the present respondents.

Issue No. 5 & 6

18. It is pertinent to observe the pleadings in the claim petition as well as the statement of the petitioner where he has completely suppressed that he was appointed through an outsource agency which fact almost become clear from his cross-examination. It is also clear that the petitioner has failed to implead the outsource agency as party in the present claim despite having knowledge that he was appointed through the outsource agency. In these circumstances the claim of the petitioner regarding reinstatement has been declined by this court. These issues are decided in the favour of respondents.

RELIEF

19. In view of my discussion on the issues nos. 1 to 6 above, the claim petition succeeds and is partly allowed. The order of reinstatement of the petitioner cannot be granted in absence of the outsource agency being made a party in this case. The petitioner however raised claim against respondents no.1 and 2 who have failed to comply with the mandatory provisions of memorandum of understanding executed between them and outsource agency and the Industrial Disputes Act, 1947 as well as precaution under Contract Labour (Regulation and Abolition) Act, 1970. The petitioner is held entitled to lump sum compensation of Rs.2 lakh from the respondents no.1 and 2. Parties are left to bear their costs.

20. The direct claim/reference is answered in aforesaid terms. A copy of this Award be sent to the appropriate Government for publication in the official gazette. File after due completion be consigned to the Record Room.

Announced in the open Court today, this 15th day of January, 2026

Sd/-
(PARVEEN CHAUHAN),
Presiding Judge,
Labour Court-cum-*Industrial Tribunal,*
Kangra at Dharamshala (H.P.).

IN THE COURT OF PARVEEN CHAUHAN, PRESIDING JUDGE, LABOUR COURT-CUM-INDUSTRIAL TRIBUNAL, KANGRA AT DHARAMSHALA (H.P.)

Reference No.	: 22/2023
Date of Institution	: 04-5-2023
Date of Decision	: 16-1-2026

Shri Rajinder Kumar s/o Shri Raghuvir Chand, r/o Village Arjun Nagar, Gali No. 4, H/No.102, Pathankot, Punjab. ..*Petitioner.*

Versus

Management M/S Ganesh Oil Mills, G.T. Road Damtal, Tehsil Indora, District Kangra, H.P. ..*Respondent.*

Reference under Section 10 (1) of the Industrial Disputes Act, 1947

For the Petitioner : Smt. Neelam Jariyal, Ld. Legal Aid Adv.

For Respondent : Sh. V.K. Sood, Ld. Adv.

AWARD

The following industrial disputes has been received by this court for the purpose of adjudication from the appropriate authority/Deputy Labour Commissioner:—

> "Whether the termination of services of Shri Rajinder Kumar s/o Shri Raghuvir Chand, r/o Village Arjun Nagar, Gali No.4, H/No.102, Pathankot, Punjab by the Management M/S Ganesh Oil Mills, G.T. Road Damtal, Tehsil Indora, District Kangra, H.P. w.e.f. February, 2-019 without serving any notice, without complying with the provisions of the Industrial Disputes Act, 1947, is legal and justified? If not, what amount of back wages, past service benefits, seniority and compensation the above worker is entitled to from the above employer?"

2. The brief facts as stated in the claim petition are that the services of petitioner were engaged by the respondent w.e.f. May, 1997 in the capacity of labourer regarding loading and unloading of concerned material as and when required. It is asserted that when the OP come to know about the educational qualification of petitioner the firm also started to take clerical work from petitioner and his EPF was deducted by the respondent from 2012-2013 uptil March, 2020. It is asserted that respondent was known as Himachal Tilhan Udyog Association Damtal and changed its name to M/s Ganesh Oil Mills Damtal and the petitioner had started work of clerk after 1997 and maintaining cash book, ledger and other account books of the Mill which was under the control and supervision of the respondent. It is asserted that the conduct of petitioner was fully satisfactory and he had never given any chance to respondent regarding his work and the fact that no show cause notice was issued to the petitioner in his entire tenure. It is alleged that the respondent had terminated the services of petitioner by way of oral order w.e.f. March, 2020 and respondent violated the provisions of Section 25-F & N of the Industrial Disputes Act, 1947. It is asserted that during services of the petitioner from 1997 till March, 2020 he had performed his duties under supervision and control of the management as well as maintained attendant register. It is asserted that petitioner had performed his duties laboriously and honestly with utmost satisfaction of the respondent. It is alleged that the act of the respondent to engage the services of petitioner was without any appointment letter and finally his services were terminated w.e.f. March, 2020 which was highly unconstitutional, contrary and against the mandatory provisions of the Industrial Disputes Act, 1947. The petitioner is unemployed from the date of his illegal termination i.e. March, 2020 till date. Thereafter petitioner had filed a demand notice before the appropriate forum and invoked the mechanism of conciliation before labour department and the reference was made in the matter regarding termination of the services of the petitioner. It is therefore prayed that respondent may be directed to set aside illegal termination order of petitioner w.e.f. March, 2020 and respondent be also directed to reinstate the services of petitioner in the same capacity in the

rolls of Ganesh Oil Mills, Damtal along-with seniority, continuity of service and all consequential service benefits including back wages, employee provident fund etc. from the date of his illegal termination.

3. In reply to the claim petition filed on behalf of respondent preliminary objections qua maintainability, locus standi, petition being time barred have been raised. On merits, it is denied that petitioner worked as labour. He never worked from March, 1997. It is denied that cash book, ledger and other account books were maintained by the petitioner since 1997. It is alleged that the work of petitioner was unsatisfactory and his services were never terminated w.e.f. March, 2020. It is asserted that petitioner had joined the services of respondent on 21.4.2015 and left his own on 28.2.2019 however he was paid salary upto February 29.9.2019 after full and final settlement with the respondent. It is denied that there was violation of Section 25-F-II and N of the Industrial Disputes Act. It is alleged that the petitioner never attended the office after February, 2019. Other averments made in the petition were denied and it is prayed that the claim of the petitioner be dismissed.

4. In rejoinder preliminary objections were denied facts stated in the petition are reasserted and reaffirmed.

5. On the basis of the pleadings of the parties, the following issues were framed for adjudication and determination:—

1. Whether the respondent has terminated the services of the petitioner w.e.f. Feb. 2019 without complying with the provisions of the Industrial Disputes Act, 1947 as alleged? ..*OPP.*

2. If issue No.1 is proved in affirmative, whether the petitioner is entitled to back wages, seniority, compensation and past service benefits as claimed? ..*OPP.*

3. Whether the petition is not maintainable, as alleged? ..*OPR.*

4. Whether the petitioner has no locus standi to file the present claim? ..*OPR.*

5. Relief.

6. The petitioner has examined himself as PW1 by way of affidavit Ext. PW1/A and document copy of special power of attorney Mark-A.

7. Respondent on the other hand has examined Shri Updesh Kumar, Manager/Authorized Representative, M/s Ganesh Oil Mills by way of his affidavit Ext. R1. He has also produced on record copy of EPF details Ext. R2, copy of joining and date of exist detail Ext. R3, copy of cheque submitted by the petitioner Ext. R4, copy of payment of wages details Mark-A, copy of attendance detail Mark-B, copy of authority letter Ext. R5 and certificate under 65B as Ext. R6.

8. I have heard the learned Counsel for both the parties at length and records perused.

9. For the reasons to be recorded hereinafter while discussing the issues for determination, my findings thereon are as under:—

Issue No. 1 : No

Issue No. 2 : No

Issue No. 3 : Yes

Issue No. 4 : Yes

Relief. : Claim petition is dismissed per operative portion of the Award.

REASONS FOR FINDINGS

Issue No. 1

10. Petitioner in the present case has appeared in the witness box as PW1 and stated his case on oath. Petitioner has mentioned that his services were engaged by the respondent w.e.f. May, 1997 in the capacity of labourer for loading and unloading of concerned material as and when required. Considering the education qualification of petitioner the respondent started to take clerical work from him and his EPF was deducted from 2012-2013 upto March, 2020. The respondent is known as Himachal Tilhan Udyog Association Damtal and changed its name to M/s Ganesh Oil Mills. The petitioner used to maintain cash book, ledger and other accounts book of the Mill under control and supervision of the respondent. His work and conduct was satisfactory and he has never given any chance in any manner regarding his work and no show cause notice was issued to him during his entire service tenure. He had worked to the utmost satisfaction of the respondent however his services were terminated *vide* oral order in the month of March, 2020. He has asserted that he performed his services with the respondent from 1997 to March, 2020 under the supervision and control of respondent management who also maintained his attendance register. He used to attend legal matters pending before Court of Civil Judge Kangra pertaining to respondent in case titled Market Fees v/s Ganesh Mills. After his illegal termination he issued demand notice to the respondent invoking mechanism for conciliation before labour department which failed and hence reference was issued to this court regarding claim of the petitioner. He has produced on record special power of attorney Mark-A.

11. Respondent has examined Shri Updesh Kumar, Manager, M/s Ganesh Oil Mills, Damtal as RW1 who has refuted the claim of the petitioner that he has been illegally terminated by respondent. He asserted that petitioner joined the respondent firm on 21.4.2015 and left the service on 28.2.2019 on his own. He was paid salary upto February, 2019. Petitioner also withdrew his EPF and pension on 29.9.2019 amounting to Rs.1,25,055/- which established that he has taken his full and final settlement and ceased to be in service thereafter. He has asserted on behalf of the respondent that respondent had not violated any provisions under Section 25-F, 25-G and 25-N of the Industrial Disputes Act, 1947.

12. Petitioner in his rejoinder has asserted that he had worked for the respondent upto March, 2020. In this regard special power of attorney Mark-A has been produced on the record. The document Mark-A was not proved in accordance with law and hence would not be relevant for determining the association of the petitioner with the respondent upto the corresponding date of March, 2020.

13. The onus of proving that he had continuously worked with respondent for 240 days in the calendar years prior to his alleged termination was on the petitioner. Pertinent to mention here that in the pleadings petitioner has mentioned about his handwriting in the cash book, bill book and register and other accounts books of M/s Ganesh Oil Mills. He has asserted that his attendance was kept on record by the respondent. Learned Counsel for the petitioner has vehemently argued that respondent had intentionally not produced complete attendance record of the petitioner. Perusal of the case file shows that respondent has produced attendance record of the petitioner pertaining to

the month of February, 2019. As already mentioned above the onus of proving the completion of 240 days in the 12 months prior to the preceding 12 months of the alleged termination was on the petitioner. The perusal of affidavit of petitioner shows that he has nowhere expressly deposed that he had completed 240 days of work prior to his alleged termination. No other oral evidence in support of the contention could be produced by the petitioner. With regard to the documents and record of attendance the petitioner as per his pleading appears to have knowledge with respect to the record kept by the respondent. The petitioner has not called for any record of the respondent which could corroborate his version with regard to the period of his continuous service with the respondent. No application under Section 11 Clause (3) of the Industrial Disputes Act, 1947 was filed by the petitioner neither the record was called for during evidence produced before this court.

14. Respondent has asserted that petitioner has left the firm and also withdrew his EPF and pension on 29.9.2019 amounting to Rs.1,25,055/- which establishes that he had received his full and final settlement and ceased to be in service. RW1 Shri Updesh Kumar has denied that petitioner had continuously worked with the respondent from 1997. He has denied that petitioner used to work as authorized representative on behalf of firm. In his cross-examination he has admitted that an employee can withdraw his PF advance as per his requirement and to withdraw full PF amount at the time exit from the company. It is asserted by respondent that petitioner had left without giving account of deficient cash of the company however it appears that the respondent has not asserted any disciplinary action against the petitioner. The contention of the petitioner regarding violation of the provisions of the Industrial Disputes Act,1947 required the proof of 240 days of continuous service prior to allege termination which could not be produced on record by the petitioner. In these circumstances the petitioner has failed to prove his eligibility under Section 25 Clause B of the Industrial Disputes Act, 1947 and consequently the violation of Section 25 Clause F is also not established. There is no evidence to prove that the services of petitioner were illegally retrenched by the respondent. Thus the issue no.1 cannot be decided in the favour of the petitioner.

Issue No. 2

15. In view of the findings on issue no.1 above the petitioner has not been able to establish his eligibility for the specific relief under Sections 25-F, 25-G and 25-N of the Industrial Disputes Act, 1947 hence no relief can be granted in his favour.

Issues No. 3 & 4

16. The onus of proving these issues was on the respondent. The respondent has admitted that petitioner had worked with the respondent for a specific period of time however the onus was on the petitioner to prove his eligibility to get any relief under the Industrial Disputes Act, 1947. The document i.e. special power of attorney produced by the petitioner was not proved in accordance with law. The voluntary withdrawal of PF by the petitioner points towards the fact that he had voluntarily left the respondent firm. In these circumstances the present claim is not maintainable and petitioner has no locus standi to file the present claim. Hence both these issues are decided in the favour of respondent and against the petitioner.

RELIEF

17. In view of my discussion on the issues no. 1 to 4, the claim made on behalf of the petitioner is not maintainable and the same is dismissed. Parties are left to bear their costs.

18. The reference is answered in aforesaid terms. A copy of this Award be sent to the appropriate Government for publication in the official gazette. File after due completion be consigned to the Record Room.

Announced in the open Court today, this 16th day of January, 2026.

Sd/-
(PARVEEN CHAUHAN),
Presiding Judge,
Labour Court-cum-*Industrial Tribunal,*
Kangra at Dharamshala (H.P.).

IN THE COURT OF PARVEEN CHAUHAN, PRESIDING JUDGE, LABOUR COURT-CUM-**INDUSTRIAL TRIBUNAL, KANGRA AT DHARAMSHALA (H.P.)**

Reference No. : 77/2020

Date of Institution : 10-09-2020

Date of Decision : 20-01-2026

Shri Chhabi Ram s/o Shri Jagat Ram, r/o Village Khalout, P.O. Brokhari, Tehsil Nihari, District Mandi, H.P. ..*Petitioner.*

Versus

The Divisional Forest Officer, Suket Forest Division, Sunder Nagar, District Kangra, H.P. ..*Respondent.*

Reference under Section 10 (1) of the Industrial Disputes Act, 1947

For the Petitioner : Sh. R.K. Bhardwaj, Ld. Adv.

For Respondent : Sh. B.C. Katoch, Ld. Dy. D.A.

AWARD

The following industrial disputes has been received by this court for the purpose of adjudication from the appropriate authority/Deputy Labour Commissioner:—

"Whether time to time termination of services of Shri Chhabi Ram s/o Shri Jagat Ram, r/o Village Khalout, P.O. Brokhari, Tehsil Nihari, District Mandi, H.P. during June, 2004 to February, 2018 and final termination during March, 2018 (as alleged by the workman) by the Divisional Forest Officer, Suket Forest Division, Sunder Nagar, District Mandi, H.P. without complying with the provisions of the Industrial Disputes Act, 1947, is legal and justified? If not, what amount of back wages, seniority, past service benefits and compensation the above worker is entitled to from the above employer?"

2. The brief facts as stated in the claim petition are that the petitioner was engaged as daily wagebeldar by the respondent under Forest Range Jhungi and other range, beats and blocks under D.F.O. Suket, Distt. Mandi H.P. w.e.f. year 2004. The claimant had worked equivalent to regular Class-IV employee with the respondent till March, 2018 and has completed 240 days in every calendar years. The petitioner also asserted that he had completed works assigned to him by the higher authorities. The petitioner was shocked when he came to know that in the seniority list of

daily wager workmen maintained by the department, the name of the petitioner did not find mention. He has alleged that he worked uninterruptedly with the department. The claimant/petitioner had applied for record regarding his mandays chart under RTI Act, 2005 and came to know that time to time artificial breaks and intermittent termination has been shown in the record which was incorrect, wrong and false. The department in the month of March, 2018 has finally terminated the services of the petitioner. It is alleged that actions of the department regarding non-placement of the name of claimant in the seniority list despite availability of work and funds especially when fresh hands are being recruited is in gross violation of the provisions of labour laws as well as Industrial Disputes Act, 1947. The petitioner/claimant has alleged that the respondent has violated the principle of 'first come last go' and record maintained by the department is alleged to be false and incorrect as the people who were junior to the claimant have been placed in the seniority list, namely Sh. Yashwant and Baldev along-with other who have been subsequently regularized. Due to above facts the petitioner raised Industrial Dispute by issuing demand notice dated 09.05.2018 to the respondent and also forwarded the copy of said demand notice to the Labour-*cum*-Conciliation Officer Mandi. According to the petitioner he was engaged as daily wage beldar/workman with the Forest Division Suket at Sunder Nagar, Distt. Mandi H.P. under Forest Range Jhungi and other Ranges, Beats and Blocks under D.F.O. Suket in the year 2004 till March, 2018 and his services have been illegally terminated. The services condition of the claimant/applicant were also changed by the respondent which is evident from the mandays chart whereby he has shown to have worked only for a few days and for the rest period it was told that he had worked on bill basis. It is alleged that this act on the part of the department not only violates the provisions of Schedule 4 of the Industrial Dispute Act but was also a contravention of the Section 9-A of the Act. The conciliation proceedings had failed before the Labour Officer, consequently appropriate Government has referred reference dated 06.08.2020 to the Court. After receiving reference the Court has issued notice to the parties on 17.12.2020. Due to outbreak of Covid-19 pandemic the petitioner was proceeded ex-parte on 17.12.2020. After passing the said exparte award the applicant/claimant filed a writ petition No. 8168/2023 before the Hon'ble High Court of Himachal Pradesh. The Hon'ble High Court *vide* this order had observed that the award dated 17.12.2020 was not decided on the merits. The Hon'ble High Court of Himachal Pradesh has allowed petition of the claimant *vide* order dated 22.11.2024 and accordingly the exparte order stood quashed set aside. This court was directed to decide award afresh by affording due opportunity being heard to the petitioner as well as stakeholder. In the light of the above mentioned averments the petitioner had prayed that the petition/claim may be allowed and time to time artificial breaks given be counted by granting continuity and seniority and claimant /applicant be re-engaged from the date of his initial engagement along-with arrears and re-instatement of service of the claimant.

3. In reply on behalf of the respondent preliminary objections qua maintainability, locus standi etc. have been raised. On merits, it is submitted that as per available record the petitioner presented himself for work to the concerned beat Forest Guard Jhungi Forest Range during the year June, 2004. He worked intermittently with the respondent department up to February, 2016 and did not complete 240 days in each calendar year as per Mandays Chart. The petitioner was intermittent worker who used to come and leave the work on his own sweet will . Respondent has asserted that there is no provision of seniority of casual daily wage labourer in the department. As and when he approached for work his services were utilized by the department. It is also asserted that forestry work is seasonal in nature and labour is engaged as per availability of work and funds and the basis of 'first come last go' was strictly followed. Other averments made in the claim petitioner have been denied and it is prayed that the claim deserves to be dismissed.

4. In rejoinder preliminary objections were denied facts stated in the petition are reasserted and reaffirmed.

5. On the basis of the pleadings of the parties, the following issues were framed for adjudication and determination:—

1. Whether time to time termination of services of the petitioner during June, 2004 to February, 2018 and final termination during March, 2018 by the respondent without complying with the provisions of the Industrial Disputes Act, 1947, is/was illegal and unjustified, as alleged? ..*OPP.*

2. If issue no.1 is proved in affirmative, to what amount of back wages, past service benefits, seniority and compensation the petitioner is entitled to from the respondent / employer? ..*OPP.*

3. Whether the claim petition is not maintainable, as alleged? ..*OPR.*

4. Whether the petitioner has no locus standi to file the present claim, as alleged? ..*OPR.*

Relief.

6. The petitioner in order to prove his case has examined himself as PW and produced on record his affidavit Ext. PW1/A wherein he has reiterated the facts stated in the claim petition and produced on record copy of demand notice Ext. PW1/B, copy of reply to the demand notice Ext. PW1/C, copy of rejoinder to demand notice Ext. PW1/D, copy of conciliation report Ext. PW1/E, copy of judgment dated 17.12.2020 Ext. PW1/F, copy of order of Hon'ble Supreme Court Ext. PW1/G, copy of mandays chart Ext. PW1/H and copy of seniority list Ext. PW1/J.

7. The petitioner has also examined Smt. Jaiwanti Devi by way of affidavit Ext. PW2/A. She has stated on oath that she was also employee of the same department and is a real sister of the claimant. She was appointed by the respondent as daily wage worker on 15.04.2006 at Ganukhar Beat Forest Range Jhungi. She deposed that claimant was engaged as daily wage beldar-*cum*-worker in the year 2004 under Forest Range Jhungi and other ranges, beats and blocks under D.F.O. Suket, Distt. Mandi. He worked equivalent to regular class-IV employee with the respondent up till March, 2018 and completed 240 days in every calendar year. Juniors of the petitioner were regularized by the department but his name did not find mentioned in the seniority list kept by the department. She has further reiterated in her affidavit facts stated on oath by the petitioner himself and prayed that the claim of the petitioner deserves to be allowed.

8. Respondent has examined Shri Rakesh Katoch, IFS s/o Late Shri Amir Chand Katoch, Deputy Conservator of Forest, Suket Forest Divisionalby way of affidavit Ext. RW1/A. He has reiterated the facts mentioned in the reply and produced on record the copy ofMandays Chart Ext. RW1/B, copy of Award dated 17.12.2020 Ext. RW1/C, copy of judgment dated 22.11.2024 Ext. RW1/D.

9. I have heard the learned Counsel for the petitioner as well as learned Dy. D.A. for the respondent at length and records perused.

10. For the reasons to be recorded hereinafter while discussing the issues for determination, my findings thereon are as under:—

Issue No. 1 : Partly Yes

Issue No. 2 : Decided accordingly

Issue No. 3 : No

Issue No. 4 : No

Relief. : Claim petition is partly allowed per operative portion of the Award.

REASONS FOR FINDINGS

Issue No. 1

11. It is contention of the petitioner that he was working as daily wage beldar and performed all the duties of regular Class-IV employee with the respondent from the year 2004 till his final termination in the month of March, 2018. He has asserted that he had completed 240 days in each calendar year which fact is also stated on oath by the PW2 Smt. Jaiwanti Devi. PW2 Smt. Jaiwanti Devi as argued by the Learned Dy. D.A. is real sister of the petitioner. Hence her deposition has to be carefully examined. There is nothing on record to prove that the petitioner completed 240 days regular service in each calendar year. The petitioner has not produced any record of the payment being made to him by the respondent.

12. It is however, the case of the respondent that the petitioner has intermittently worked with the respondent w.e.f. June, 2004 to February, 2016 and clear statement to this effect is made by the RW1 Sh. Rakesh Katoch. Respondent has asserted that no fictional breaks were ever given to the petitioner. He used to come and leave the work at his own sweet will and convenience. When he approached department, his services were utilized by the respondent. In his cross-examination he admitted that the petitioner was appointed with the department in the year 2004. However, he added that the petitioner worked only for 25 days during that year. He has denied that the petitioner worked as Class-IV employee and continued 240 days in each calendar year. In this regard it is important to peruse the mandays chart Ext. RW1/B which clearly describedthat the petitioner has worked for 25 days in the year 2004, 15 days in the year 2007, 60 days in the year 2009, 15 days in the year 2010, 31 days in the year 2011, 22 days in the year 2013, 157 days in the year 2014, 39 days in the year 2015 and 19 days in the year 2016.

13. The respondent has asserted that the work of department is seasonalin nature however, it is also mentioned that the workmen who have completed 240 days of workare considered for the purpose of regularization. This contention on behalf of the respondent clearly points towards the fact that the work and funds are available with the respondent department through out the year. Consequent to which 240 days of work was being provided to some of the workers by the respondent. Though, it is asserted that the petitioner worked as per his convenience there does not appear on the record any notice issued by the respondent whereby he was informed or directed to work with the respondent department. Thus it appear that despite available of works and funds respondent intentionally failed to provide work of 240 days to the petitioner which was being provided to other workers of similar standing.

14. RW1 Sh. Rakesh Katoch has not denied that some of the juniors to the petitioner have been regularized by the respondent, however, according to him they have been regularized as per the policy and approval of the Government. Seniority list Ext. PW1/J is produced on record which clearly shows after Sl. No. 96 the persons appointed in the year 2005 are working with the department. It is hence clear that the person junior to the petitioner have been continuously working with the department, however, the services of the petitioner have not been availed. The above facts made it clear that the petitioner has been provided intermittent breaks by the respondent. Since the petitioner himself asserted completion of 240 days of service but failed to prove it by way of leading evidence, the case of the petitioner does not qualify for any relief under Section 25 clause (f) of the Industrial Disputes Act, 1947. The respondent has appointed and continued workers with the department junior to the petitioner despite giving any breaks. There is

no evidence of paucity of funds and availability of work. Thus the respondent has intentionally violated the provisions of Section 25-G and 25-H of the Industrial Disputes Act, 1947. Issue No. 1 is partly decided in favour of the petitioner.

Issue No. 2

15. The evidence produced on record the case file clearly shows that the respondent has failed to provide the work to the petitioner neither they have been able to establish that the petitioner had left the work at his own sweet will. Since the juniors to the petitioner had continuouslyworked and new persons were appointed after termination of service of petitioner the respondent is liable for violation of Industrial Disputes Act, 1947. The petitioner is held entitled for compensation of Rs.1 lakh for violation of the provisions of Sections 25-G and 25-H of the Industrial Disputes Act, 1947 by the respondent along-with interest @ 6% from the date of his final termination i.e. March, 2018 till the realization of the award.

Issues No. 3 and 4

16. The onus of proving these issues was on the respondent. It is admitted fact that the petitioner had worked with the respondent department intermittently from year, 2004 upto 2017 as per mandays chart produced by the respondent. In the light of proof of violation of the provisions of the Industrial Disputes Act, 1947 by the respondent, the petitioner is entitled for relief and the present claim is maintainable. The petitioner being a workman has locus standi to file the present claim. The issues no. 3 & 4 are accordingly decided in the favour of the petitioner and against the respondent.

RELIEF

17. In view of my discussion on the issues no. 1 to 4 above, the claim petition succeeds and is partly allowed. The petitioner is held entitled for compensation of Rs.1,00,000/- (Rs. One lakh) for violation of the provisions of Sections 25-G and 25-H of the Industrial Disputes Act, 1947 by the resspondent along-with interest @ 6% from the date of his final termination i.e. March, 2018 till the realization of the award. Parties are left to bear their costs.

18. The reference is answered in aforesaid terms. A copy of this Award be sent to the appropriate Government for publication in the official gazette. File after due completion be consigned to the Record Room.

Announced in the open Court today, this 20th day of January, 2026.

Sd/-
(PARVEEN CHAUHAN),
Presiding Judge,
Labour Court-cum-*Industrial Tribunal,*
Kangra at Dharamshala (H.P.).

IN THE COURT OF PARVEEN CHAUHAN, PRESIDING JUDGE, LABOUR COURT-CUM-**INDUSTRIAL TRIBUNAL, KANGRA AT DHARAMSHALA (H.P.)**

Reference No.	: 163/2017
Date of Institution	: 03-08-2017
Date of Decision	: 20-01-2026

Shri Vijay Kumar S/O Shri Bhisham Singh, R/O Village Basdehra, Tehsil & District Una, H.P. ..*Petitioner.*

Versus

The Employer/General Manager, M/S Wellsun Texchem Private Limited, Plot No. 78-79, Industrial Area Mehatpur, Tehsil & District Una, H.P. ..*Respondent.*

Reference under Section 10 (1) of the Industrial Disputes Act, 1947

For the Petitioner : Sh. Anuj Kumar, Ld. Adv. Legal Aid Counsel.

For Respondent : Ms. Arti, Ld. Adv.

AWARD

The following industrial disputes has been received by this court for the purpose of adjudication from the appropriate authority/Deputy Labour Commissioner:—

> "Whether termination of services of Shri Vijay Kumar s/o Shri Bhisham Singh, r/o Village Basdehra, Tehsil & District Una, H.P. during June, 2016 by the Employer/General Manager M/S Well sun Texchem Private Limited, Plot No. 78-79, Industrial Area Mehatpur, Tehsil & District Una, H.P. without complying with the provisions of the Industrial Disputes Act, 1947, is legal and justified? If not, what amount of back wages, seniority, past service benefits and compensation the above worker is entitled to from the above employer?"

2. The brief facts as stated in the claim petition are that the services of the petitioner were engaged by the respondent on daily wages basis as maintenance worker in the year 2014 and he has rendered his services as maintenance worker regularly up-to 30.06.2016. It is asserted that the petitioner was appointed as maintenance worker but the respondent and its management used to take the different and other various types of work from the petitioner i.e. field work and marketing work and other work. The petitioner was rendering his services to the entire satisfaction of the respondent. The petitioner left no stone unturned to satisfy his superior and gave no chance to the respondent of any complaint. It is pertinent to mention here that during the time the petitioner worked in the factory/company of the respondent, the petitioner was not served any show cause notice by the respondent. It is submitted that in the month of June, 2016 all of sudden the petitioner was directed by the respondent management not to enter the gate of factory/company w.e.f. 30.06.2016 and as such the services of the petitioner were wrongly and illegally terminated without assigning any reason. The establishment of the respondent is an industrial establishment as defined in the Industrial Disputes, Act, 1947 and the service of the workmen are being governed by the provisions of the said Act. It is asserted that the respondent has violated the provisions of Section 25-F, 25-G and 25-H of the Industrial Disputes Act, 1947 and no compensation has been given to the petitioner for illegal and wrong retrenchment/termination of the services and the juniors to the petitioner are still on the roll of the respondent. Respondent has admitted before the Labour Inspector at the time of counselling that no prior written notice has been given to the petitioner before termination of his services and respondent has not adopted the policy of "First Come Last Go" as such petitioner is entitled to all the service benefits from the date of his wrong and illegal termination. The petitioner has completed 240 days in every calendar year as such the disengagement / retrenchment/termination of the services of the petitioner w.e.f. 30.06.2016 without issuance of termination order from the job of daily wages was unfair labour practice and retrenchment of the services of the petitioner is required to be set aside. The petitioner is continuously visiting the office of the respondent as well as the office of subordinate of the

respondent and wrote letter for seeking the job but no fruitful conciliation is arrived at between the parties even before the Labour Inspector as such the matter is referred to this Court. It is submitted that the respondent has grossly and palpably violated the provisions of Articles 14 and 16 of the Constitution of India. It is asserted that the petitioner/workman is still unemployed and not gainfully employed anywhere from the date of his termination. It is prayed that the termination of the petitioner on dated 30.06.2016 may be revoked and the services of petitioner may be reinstated with full back wages, seniority and continuity, arrears of difference of the wages along-with all consequential service benefits.

3. In reply to the claim petition preliminary objections qua maintainability, enforceable cause of action, locus standi, suppression of material facts and estopple have been raised. On merits, it is asserted that the petitioner was not working as per the directions given by his seniors during his job time and has not rendered his services as per the satisfaction of the respondent. It is denied that no show cause notice was ever served to the petitioner by the respondent. It is also denied that the respondent has violated the provisions of Section 25-F, 25-G and 25-H of the Industrial Disputes Act, 1947 and no compensation has been paid to the petitioner. It is asserted that the provisions embodied in Section 25-H of the Industrial Disputes Act, 1947 is not applicable in this present case and workers were appointed as per their qualifications. It is alleged that the petitioner has left his job by taking the full compensations from the respondent and has signed the receipt voucher in the presence of the witnesses. It is asserted that the petitioner along-with other workers indulged themselves in illegal activities and they always tried to blemish the reputation of the respondents company. The petitioner was appointed as helper for the construction work only. It is asserted that appointments made by the respondents are the part of the appointing management and the new incumbent were appointed as per their qualifications. It is alleged that respondent has paid all the required compensations as per Act to the petitioner and has not violated the provisions of Articles 14 & 16 as well as 21 of the Constitution of India. Other parawise averments made in the petition were denied and it is prayed that the claim of the petitioner deserves to be dismissed.

4. In rejoinder preliminary objections raised in reply were denied facts stated in the petition are reasserted and reaffirmed.

5. On the basis of the pleadings of the parties, the following issues were framed for adjudication and determination:—

1. Whether the petitioner was illegally and unjustifiably terminated by the respondent during June, 2016, as alleged. If so, its effect? ..*OPP.*

2. Whether the claim petition is not maintainable, as alleged? ..*OPR.*

3. Whether this Court has no jurisdiction to decide the present case, as alleged? ..*OPR.*

4. Whether the petitioner has no locus standi and cause of action to file the present case, as alleged? ..*OPR.*

5. Whether the petitioner is estopped to file the present claim by his act and conduct, as alleged? ..*OPR.*

6. Whether the petitioner has not come to the Court with clean hands and has suppressed the material facts, as alleged? ..*OPR.*

Relief.

6. The petitioner in order to prove his case has produced his affidavit Ext. PW1/A wherein he has reiterated the facts as stated in the claim petition. He has also produced on record

copy of report under Section 12(4) Ext. PW1/B, copy of application Ext. PW1/C, copy of application dated 16.11.2016 Ext. PW1/D, copy of application dated 16.11.2016 received by the respondent Ext. PW1/E copy of notice dated 02.08.2016 Ext. PW1/F, Copies of proceedings Ext. PW1/G, copy of bank account statement Ext. PW1/H, Bank passbook Ext. PW1/J and copy of ESIC card Ext. PW1/K .

7. Respondent has failed to lead the evidence hence the evidence of the respondent has closed by the order of the Court.

8. I have heard the learned Counsel for the petitioner as well as learned counsel for respondent at length and records perused.

9. For the reasons to be recorded hereinafter while discussing the issues for determination, my findings thereon are as under:—

Issue No. 1	: Yes
Issue No. 2	: No.
Issue No. 3	: No.
Issue No. 4	: No.
Issue No. 5	: No.
Issue No. 6	: No.
Relief.	: Partly allowed as per operative portion of the Award.

REASONS FOR FINDINGS

Issue No. 1

10. The petitioner has produced his affidavit Ext. PW1/A wherein he has alleged that he was recruited as maintenance worker by the respondent in the year January, 2014. He remained in service 240 days in each calendar year upto 30.06.2016. In the month of June, 2016 all of sudden the petitioner was directed by the respondent/management not to enter the gate of factory w.e.f. 30.06.2016 and his services were wrongly and illegally terminated without assigning any reason. The petitioner has alleged that action of the respondent company was unjustified and violation of the provisions of the Industrial Disputes Act, 1947. The petitioner has prayed that the termination order passed by the respondent may be quashed and the services of the petitioner be re-instated along-with full back wages and the respondent is also directed to pay all the benefits and arrear during which petitioner was remained terminated.

11. The petitioner in his cross-examination has admitted that he has not produced any appointment letter. He has denied that he has unskilled part time worker and also denied that he was not working full time in the company and was called as per availability of work. He denied that the company has paid full and final dues before disengaging his service and he was given two cheques of 20 thousand each. He further mentioned that he was given only one cheque of Rs. 20 thousand. He has denied putting his signature on any voucher for full and final payment. He also denied that he has not completed more then 240 days in each calendar year.

12. Learned counsel for the respondent has vehemently argued that the petitioner has not produced any documentary evidence to establish 240 days service with the respondent. It is pertinent to mention here that the respondent has failed to produce any evidence orally or documentary before this Court. The petitioner asserts in his deposition that he filed an application calling for documents in possession of the respondent company regarding his attendance which was not supplied. Perusal of the case file shows that the company has failed to produce any record pertaining the attendance of the petitioner. The appointment of the petitioner is not been disputed by the respondent. The onus of proving completionof 240 days of continuous service was initial on the part of the petitioner. The petitioner has made statement to this effect. An affidavit along-with application directing the company to produce his attendance record which has been produced in the Court. The copy of document i.e. voucher wherein signatures of the petitioner have not been proved in accordance with law by the respondent. The signatures mentioned therein were not put to the petitioner in his cross-examination. Hence it can be held that the petitioner had received full and final payment qua his termination under Section 25 clause (f) of the Industrial Disputes Act, 1947. The averments made by the petitioner in his affidavit could be controverted by way of evidence led by the respondent. The contention of the respondent as mentioned in the reply remained un supported and uncorroborated due the absence of the oral documents evidence on their behalf. In these circumstances it is proved that the petitioner was employee of the respondent from the year 2014 upto 2016. He workedcontinuously and completed 240 days of service in each calendar year. The termination of petitioner was not accompanied with mandatory compliance under Section 25 clause (f) of the Industrial Disputes Act, 1947. Hence, the respondent are liable for the violation of the mandatory provisionsof the Industrial Disputes Act, 1947. Issue No. 1 is accordingly decided in favour of the petitioner.

Issues No. 2, 3, 4, 5 and 6

13. The onus of proving above mentioned issues was on the respondent. The respondent has failed to lead any oral as well as documentary evidence in support and objection in the reply. Hence all these issues are decided in the favour of the petitioner.

RELIEF

14. In view of my discussion on the issues no. 1 to 6 above, the claim petition succeeds and is partly allowed. The respondent has violated the mandatory provision of Section 25-F of the Industrial Disputes Act, 1947. Consequently petitioner is held entitled for reinstatement to his post with the same benefit as on the date of his termination and additional compensation of Rs.1,00,000/- (Rs. One Lakh only) for the violation of the provisions of the Industrial Disputes Act, 1947. Parties are left to bear their costs.

15. The reference is answered in aforesaid terms. A copy of this Award be sent to the appropriate Government for publication in the official gazette. File after due completion be consigned to the Record Room.

Announced in the open Court today, this 20th day of January, 2026.

Sd/-
(PARVEEN CHAUHAN),
Presiding Judge,
Labour Court-cum-*Industrial Tribunal,*
Kangra at Dharamshala (H.P.).

IN THE COURT OF PARVEEN CHAUHAN, PRESIDING JUDGE, LABOUR COURT-CUM-**INDUSTRIAL TRIBUNAL, KANGRA AT DHARAMSHALA (H.P.)**

Reference No. : 205/2017

Date of Institution : 10-10-2017

Date of Decision : 21-1-2026

Shri Sourabh Khatri s/o Shri Prithvi Ram, AWA Power Company Private Limited Baijnath, Tehsil Baijnath, District Kangra, H.P. ..*Petitioner.*

Versus

1. The General Manager, AWA Power Company Private Baijnath, Tehsil Baijnath, District Kangra, H.P.

2. SPML ENERGY LTD., 22, Camac Street, Block-A, 3rd Floor, Kolkata-700061 through its Chairman/Director Shri S.C. Sethi. ..*Respondents.*

Reference under Section 10 (1) of the Industrial Disputes Act, 1947

For the Petitioner : Sh. Rajinder Thakur, Ld. Adv.

For Respondent : Sh. Tarun Sharma, Ld. Adv.

AWARD

The following industrial disputes has been received by this court for the purpose of adjudication from the appropriate authority/Deputy Labour Commissioner:—

> "Whether termination of the services of Shri Sourabh Khatri s/o Shri Prithvi Ram, AWA Power Company Private Limited Baijnath, Tehsil Baijnath, District Kangra, H.P. by the General Manager, AWA Power Company Private Limited Baijnath, Tehsil Baijnath, District Kangra, H.P. on account of suspension and transfer *vide* letter dated 23-10-2015, without complying with the provisions of the Industrial Disputes Act, 1947, is legal and justified? If not, what amount of back wages, seniority, past service benefits and compensation the above worker is entitled to from the above employer/Management?"

2. The brief facts as stated in the claim petition are that applicant was initially appointed as Junior Executive Stores in AWA Power Company Private Limited *vide* an appointment letter dated 1.1.2011 issued by respondent no. 2 and the applicant discharged his duties sincerely and faithfully with the respondents. It is asserted that the applicant was promoted as Executive-Admn., however when the applicant was working as Executive Admn. he was placed under suspension by respondent no.1 *vide* order dated 23.10.2015 on the ground of contemplated enquiry against the applicant and the Head Quarter of applicant was ordered to be fixed at Banuri Central Store. It is asserted that the applicant was appointed by AWA Power Compnay Pvt. Ltd. and as such being aggrieved with fixation of HQ at Banuri Central Store he submitted a representation dated 9.11.2015 to respondent no.1 to fix HQ of applicant at AWA Power Company Ltd. It is asserted that respondent was supposed to take into consideration genuine request of applicant but respondent no.1 acted contrary *vide* letter dated 21.11.2015 and turned down the request of applicant. It is asserted that respondent no.1 appointed Inquiry Officer *vide* letters dated 8.12.2015

and presenting officer to enquire the alleged charges framed against the applicant however no such charges were framed against the applicant by that time. *Vide* memorandum dated 22.12.2015 respondent no.1 served a charge-sheet upon the applicant with false distorted allegations that the applicant was allegedly found involved in the acts/conduct prejudicial to the reputation and interest of the management during his service from 1.1.2011 to 23.10.2015. It is alleged that the applicant was found involved in riotous, criminal offensive and disorderedly behaviour on 14.10.2015 when a meeting between local management and union members was going on in the office of respondent no.1 at Baijnath. It is mentioned in the charge sheet that the applicant allegedly did not join at HQ fixed during suspension. After receving the charge-sheet the applicant submitted an application dated 30.12.2015 to respondent no.1 seeking extension of time to file the reply to the charge-sheet but *vide* letter dated 4.1.2016 the respondent no.1 had rejected the genuine request of the applicant. It is asserted that the Annexure-4 of charge-sheet dated 22.12.2015 Shri S.P. Acharya, the respondent no.1 was shown a witness at serial no.1 who himself was the Senior General Manager who issued the charge-sheet to the applicant. *Vide* order dated 8.12.2015 respondent no.1 had appointed Shri Vinod Kashyap as an Inquiry Officer who previously was working as Senior Manager in the respondent company and as such the objection raised by the union as well as the applicant being member of unit of the union, Shri Vinod Kashyap was shifted from Himachal Pradesh but now Shri Vinod Kashyap was appointed as Inquiry Officer to conduct the enquiry against the applicant. It is asserted that Annexure-4 of the charge-sheet shows Shri Nitin Nagpal as witness no.6 whereas Shri Nitin Nagpal himself was appointed as Presenting Officer by the respondent no. 2 *vide* order dated 8.12.2015 ignoring all the provisions of law. It is asserted that the charge-sheet as well as action of respondent no.1 with regard to appointment of Shri Vinod Kashyap as Inquiry Officer and Shri Nitin Nagpal as Presenting Officer were entirely vague, unreasonable, illegal and unjustified and as such the applicant objected the same but as per directions of respondent no.1 Shri Vinod Kashyap, Inquiry Officer started the proceedings of enquiry and *vide* letter daed 5.1.2016 applicant was directed to attend the enquiry on 9.1.2016 in the office of respondent no.1 at Baijnath. It is alleged that Inquiry Officer had conducted enquiry in the office of respondent no.1 under the direct supervision of respondent no.1. On the next date of enquiry which was fixed on 19.1.2016 *vide* application dated 19.1.2016 the applicant had appointed Shri Ravi Thakur as his defence assistant. It is alleged that Inquiry Officer had adopted a vindictive attitude against the applicant and was trying to record the statements of the witnesses in the absence of the applicant as well as his defence assistant. It is asserted that the applicant had submitted an application dated 9.3.2016 to respondent no.1 with regard to attitude of Inquiry Officer and requested him to change Inquiry Officer in order to maintain transparency in the enquiry. It is asserted that respondents did not release subsistence allowance to applicant during suspension period and as such the applicant had submitted two respective representations dated 8.3.2016 and 9.3.2016 to the Labour Officer as well as respondent no.1 respectively but was in vain. It is asserted that the inquiry was conducted in gross violation of the principles of natural justice as the applicant submitted another representation dated 10.3.2016 to the Inquiry Officer. Thereafter applicant had submitted another representation dated 16.3.2016 to respondent no.1 moreover the Inquiry Officer continued to conduct the inquiry in his own style with short dates and as such the applicant and his defense assistant submitted two representations to the Inquiry Officer regarding their inability to attend the inquiry proceedings due to scarcity of money and then Rs.100/- only per day/proceeding of the inquiry was released to the applicant but no amount of subsistence allowance was released to the applicant. It is asserted that respondent no.1 rejected the request of applicant and inquiry officer issued a letter dated 18.3.2016 directed the applicant to lead his evidence whereas the evidence of prosecution was not completed by the presenting officer and a similar letter dated 17.3.2016 the applicant was directed by Inquiry Officer to produce list of witnesses on 30.3.2016. It is asserted that the cross-examination of Shri S.P. Acharya was started 30.3.2016 but the same was not completed on that day and the same deferred. However, on that day the applicant was also compelled by the Inquiry Officer to submit the list of defence witnesses whereas the evidence of prosecution was not completed by that time. It is asserted that inquiry was fixed on

12.4.2016 however when the applicant along-with his defense assistant went to attend the inquiry, the Inquiry Officer told the applicant and his defense assistant will be informed about the next date of hearing by way of letters. It is asserted that the applicant received a show cause notice dated 10.5.2016 issued by respondent no.1 wherein it was mentioned that Inquiry Officer had submitted inquiry report and the charges were allegedly proved against the applicant and he (applicant/petitioner) had replied to the show cause notice on dated 21.5.2016. It is alleged that respondent no.1 acted in arbitrary manner and *vide* order dated 23.5.2016 the services of the petitioner were dismissed from respondent company w.e.f. 23.5.2016. Thereafter applicant served a demand notice dated 21.6.2016 upon the respondents with a copy of Labour Officer, Kangra District at Dharamshala and proceedings were started by the Labour Officer but respondents instead of cooperating the proceeding sent a letter dated 28.6.2016 to Conciliation Officer-*cum*-Labour Officer regarding denying the claim of the applicant and respondents did not put their appearance before the conciliation officer. It is alleged that charge-sheet dated 22.12.2015 was vague and defective and the same was invalid as the charge-sheet was issued by respondent no.1, Sr. General Manager who was incompetent authority as the proceedings could not be carried out on the basis of the same charge sheet. It is alleged that when charge-sheet was framed the proceedings were carried out in gross violation of the provisions of the Rules and principles of natural justice. It is prayed that the order dated 23.5.2016 issued by respondent no.1, Sr. General Manager may be quashed and applicant may be ordered to be reinstated in the post of Executive Admn. along-with all consequential benefits i.e. seniority and back wages etc. along-with interest of 18% per annum.

3. In reply to the claim petition filed on behalf of respondents preliminary objections qua maintainability, claim being bad for non-joinder of necessary parties, estopple etc. have been raised. On merits, it is asserted that the applicant was appointed as Jr. Executive Stores in AWA Power Company Pvt. Ltd. on compensation and other benefits as per the entitlements specified in the company policy. It is denied that the petitioner had discharged his duty sincerely and faithfully with the respondents. It is asserted that as per policy of company the employment of applicant was subject to terms and conditions which are specified to the knowledge of the applicant. It is alleged that applicant was placed under suspension a per the policy of the company as proposed inquiry was contemplated against him for his gross misconduct, misdemeanour, subversion of discipline and his reiterative indulgence to vandalize and damage the property of the company and intimidation of managerial personnel of the company. It is asserted that after receiving orders No. AWA/HR/215 dated 23.10.2015 the applicant did not report till 31.12.2015 as the HQ fixed during suspension. He was repeatedly asked before 31.12.2015 to do so but the applicant had failed and this act also amounted to disobedience and non compliance to the orders of management. It is asserted that the applicant had wrongly interpreted the Office Order dated 8.12.2015. It is denied that the applicant was charge-sheeted with false and distorted allegations. It was mentioned that meeting took place on 14.10.2015 between the workers and management in Baijnath when deliberation on common issue were going on peacefully however applicant and two other employees Sanjeev Kumar, driver and Ravi Thakur, Fitter hobnobbed and colluded with each other and they were furious and violent without any rhyme and reason. The applicant and other formed an unlawful assembly started manhandling the managerial personnels and they also indulged in vandalizing and damaging the property of the respondent concern. They badly intimated the managerial personnels of the company and threw article in the room and on the manager and they threatened the managerial personnels with dire consequences and also threatened to harm the project of the management work in Himachal Pradesh. The matter was reported to Police Station Baijnath and FIR Number 169/2015 under Section 506, 427, 504 and 34 of Indian Penal Code was registered against applicant and his associates. It is asserted that charge-sheet was issued to applicant *vide* office memo number AWA/HP/331 dated 22.12.2015 as well as Presenting Officer and Inquiry Officer were also appointed in the inquiries. Due opportunity was afforded to applicant to submit his statement of defense on the charges enumerated in the charge-sheet but no reply was received despite extension to submit the reply. It is asserted that sufficient opportunity was given to

applicant to submit his defense and after enquiry period given for the purpose the enquiry process was started against the applicant. It is denied that appointment of Shri Vinod Kashyap and Shri Nitin Nagpal as I.O. and P.O. were vague, unreasonable and illegal etc. It is denied that the I.O. had proposed to conduct the enquiry under the direct supervision of the respondent no.1 and the applicant was dictated by the I.O. to conduct proceeding as per his own choice. It is denied that any amount due to the applicant was withheld unreasonably. It is further denied that the enquiry was not conducted as per principle of justice and the Inquiry Officer had biased attitude against the applicant. It is denied that on 12.4.2016 the applicant and his defense assistant appeared before the Inquiry Officer. It is asserted that the charged workers were asked to file the list of witnesses on the basis of statement but they failed to do so. It is asserted that the applicant was given several chances for the same but on every chance he promised to file the same and produce the witnesses but failed to do so under one pretext or the another. It is asserted that the defense was closed only after given several opportunities to the applicant to file list of witnesses. Other parawise averments made in the petition were denied and it is prayed that claim petition be dismissed.

4. In rejoinder preliminary objections were denied facts stated in the petition are reasserted and reaffirmed.

5. On the basis of the pleadings of the parties, the following issues were framed for adjudication and determination:-

1. Whether the termination of service of petitioner by the respondent on account of suspension and transfer vide letter dated 23-10-2015 is/was legal and justified as alleged? ..*OPP.*

2. If issue no.1 is proved in affirmative, to what service benefits the applicant is entitled to? ..*OPP.*

3. Whether the claim petition is not maintainable in the present form? ..*OPR.*

4. Whether the claim petition is hit by the vice of delay and laches as alleged? ..*OPR.*

5. Whether the claim petition is bad for non-joinder and mis-joinder of the necessary parties as alleged? ..*OPR.*

6. Whether the applicant is estopped from filing the statement of claim by his acts, conduct and deeds as alleged? ..*OPR.*

Relief.

6. During the course of arguments it appeared that essential issue between the parties regarding legality of the enquiry had not been framed. The averments made in the reply pointed towards the fact that termination of the petitioner was in consequence to inquiry conducted by the respondent against the petitioner. In the presence of the parties and learned counsel, the following additional issue was framed a under:—

1(a). Whether the inquiry conducted by the respondent against the petitioner was fair, proper, justified and in accordance with the principle of natural justice, as claimed? ..OPR.

Relief.

7. The petitioner has examined one Shri Jayan K.P. s/o Shri K.K. Parmeshwari, presently working as Assistant Manager, AWA Power Company Private Limited by way of examination-in-chief as PW1 and he has produced on record copies of appointment letter of petitioner Ext. PW1/A, officer order dated 23.10.2015 Ext. PW1/B, letter dated 9.11.2015 Ext. PW1/C, officer orders dated 8.12.2015 Ext. PW1/D & Ext. PW1/E, memorandum dated 22.12.2015 Ext. PW1/F, letter dated 5.1.2016 Ext. PW1/G, letter dated 19.1.2016 Ext. PW1/H, proceeding dated 19.1.2016 Ext. PW1/I, letter dated 2.3.2016 Ext. PW1/J, letter dated 15.3.2016 Ext. PW1/K, removal of inquiry dated 18.3.2016 Ext. PW1/L, letter dated 17.3.2016 Ext. PW1/M, proceeding dated 17.3.2016 Ext. PW1/N, letter dated 10.5.2016 Ext. PW1/O, letter dated 23.5.2016 Ext. PW1/P and letter dated 28.6.2016 Ext. PW1/Q. The petitioner has examined himself as PW2 and filed his affidavit Ext. PW2/A wherein he has reiterated the facts as stated in the claim. He has also produced on record copy of reply dated 21.5.2016 Ext. PW2/B, copy of demand notice Ext. PW2/C, copy of letter dated 2.3.2016 Mark-P-1, representation dated 9.3.2016 Mark P-2, complaint dated 8.3.2016 Mark P-3, representation dated 9.3.2016 Mark-4, letter dated 10.3.2016 Mark P-5, letter dated 16.3.2016 Mark P-6, representation dated 16.3.2016 Mark P-7.

8. Respondent on the other hand have examined Shri Lekh Raj Rana s/o Shri Mohan Singh Rana at present Liaison Officer, Neugal Power Co. Pvt. Ltd. as by way of his affidavit RW-1. He has also produced on record copy of appointment letter Ext. R-1, letter dated 8.9.2014 Ext. R-2, copy of FIR Ext. R-3, copy of Memorandum Ext. R-4, notice Ext. R-5 and inquiry report Ext. R-6. The respondent has also examined Shri Harsh Sapolia s/o Shri N.K. Sapolia, Senior Manager, Neugal Power Co. Pvt. Ltd. as RW2 by way of affidavit RW-2. RW3 is Shri Vinod Kashyap s/o Late Shri Biru Ram by way of affidavit Ext. RW3/A examined by the respondent and he has also produced on record show cause notice Ext. RW3/B.

9. I have heard the learned Counsel for both the parties at length and records perused.

10. For the reasons to be recorded hereinafter while discussing the issues for determination, my findings thereon are as under:—

Issue No. 1	: Yes
Issue No. 1 (a)	: No
Issue No. 2	: No
Issue No. 3	: No
Issue No. 4	: No
Issue No. 5	: No
Issue No. 6	: No
Relief.	: Claim petition is partly allowed per operative portion of the Award.

REASONS FOR FINDINGS

Issue No. 1 (a)

11. Issue No. 1 (a) shall be taken up for adjudication as preliminary issue with respect to dispute between the parties.

12. That the petitioner was appointed as Jr. Executive Stores by the respondents on 1st January, 2011 vide Ext. PW1/A is not disputed fact. He was placed under suspension on 23.10.2015 after the office order dated 23.10.2015 Ext. PW1/B. The affidavit Ext. PW2/A sworn by the petitioner alleges violation of the principle of natural justice and fair play in the conduct of an inquiry by the respondents.

13. Petitioner has submitted an application on 30.12.2015 seeking extension of time to reply to the charge-sheet which was declined vide letter dated 4.1.2016. The Manager who has acted as disciplinary authority was shown in the list of witnesses prepared by the disciplinary authority. Vide order dated 8.12.2015 Shri Vinod Kashyap was appointed as Inquiry Officer who was earlier Senior Manager of respondent company. He was shifted from Himachal Pradesh on the objection raised by the union of employees. Shri Nitin Nagpal was mentioned in the list of witnesses as witness no.6 and he was appointed as Presenting Officer by respondent no.1. It is argued by the learned counsel for the petitioner that the charge-sheet and role of Shri Vinod Kashyap as an Inquiry Officer and Nitin Nagpal as Presenting Officer was unreasonable, illegal, unjustified and in violation of the basic tenets of natural justice.

14. Petitioner alleges in his statement that perusal of letter dated 5.1.2016 shows that inquiry officer has proposed to conduct the inquiry in the office of respondent under his direct supervision. The inquiry was fixed for 17.2.2016 to 2.3.2016 and the defence assistant of the petitioner was not available. The inquiry was thereafter fixed on the request of the petitioner on 3.3.2016 the very next day and since Ravi Thakur was not available on the said fixed date, the petitioner had to rush to his house for filing of application for adjournment. Petitioner alleges that inquiry officer was in vindictive attitude and recorded the statements in the absence of petitioner as well defence assistant. He further alleges that charge-sheet was wholly vague and inquiry officer appointed with a clear motive to cause damage to him. He consequently filed a representation on 8.3.2016 with respondent no.1 to withdraw charge-sheet and remove the inquiry officer. The copy of representation was also sent to Labour Officer however according to him the Labour Officer behaved as mere spectator in the matter. Respondent no.1 rejected the request of the petitioner and inquiry officer issued letter dated 18.3.2016 directing him to lead his evidence whereas the evidence of prosecution was not yet complete. Similarly letter dated 17.3.2016 was issued by inquiry officer whereby he was directed to file the list of witnesses on 30.3.2016. The cross-examination of Shri S.P. Acharya was started on 30.3.2016 which was not completed on that date and the cross-examination was deferred for 12.4.2016. On that date petitioner was compelled by inquiry officer to submit list of defence witness even when prosecution evidence had not completed. He has alleged that the inquiry officer had carried out the inquiry in his own style. The defence assistant vide letter dated 4.4.2016 requested the inquiry officer to complete prosecution evidence before filing of list of witness but the inquiry was again fixed on 12.4.2016 when petitioner along-with defence assistant went to attend the inquiry. On the said date inquiry officer told the petitioner as well as his defence assistant that they would be informed of the next date. The petitioner was shocked to receive show cause notice dated 10.5.2016 whereby it was mentioned that inquiry officer has submitted the inquiry report and alleged charges have been proved against the petitioner in the said inquiry report. Petitioner submitted his reply to the show cause notice received by him but it is alleged that respondent no.1 again acted in a arbitrary manner against the petitioner and passed an order of dismissal of petitioner from his services. Consequent to which the petitioner had to raise demand notice dated 21.6.2016. The conciliation proceedings were not attended by the respondents and the present reference was issued before this court.

15. Respondents have examined RW1 Shri Lekh Raj Rana, Liaison Officer and RW2 Shri Harsh Sapolia, Senior Manager who have both stated on oath that they were witnesses in the inquiry process and also well conversant with the facts of inquiry proceedings and they deposed that petitioner was appointed as Jr. Executive Stores as per the specifications of the company policy

and was placed under suspension in view of inquiry contemplated against him because of misconduct, misdemeanour, subversion of discipline and his reiterative indulgence vandalizing to damage property of the company. They also deposed that petitioner along-with other workers on 14.10.2015 formed unlawful assembly during the meeting with the workers and management. They alleged that petitioner indulged in damaging, vandalizing the property and intimidated the managerial personnel. A case FIR was also registered pertaining to such incident. Since the date of inception of inquiry there was no complaint made by the petitioner or his defence assistant Shri Ravi Thakur but they moved an application to the Labour Officer alleging irregularities in the inquiry and appointment of inquiry officer. There was no truth in these allegations hence no change was made on his application. Petitioner was given sufficient opportunities to present his defence and the inquiry was conducted in accordance with law as well as principles of natural justice. They also deposed that petitioner himself was not cooperating in the inquiry process and tried to delay the proceedings. According to them petitioner was given several opportunities to produce evidence but he failed to produce evidence and hence his evidence was closed. They also deposed that inquiry process was transparent and petitioner actively participated in the same. According to these witnesses General Manager was a competent authority to issue dismissal order against the petitioner. Respondent have also examined Inquiry Officer RW3 Shri Vinod Kashyap who was also Senior Manager in SPML group in the year 2015. He has deposed about the terms of employment of the petitioner and the disciplinary proceedings undertaken for the allegations of gross misconduct, misdemeanour, subversion of discipline and his repeated indulgence to vandalize and damage of the company. He also deposed about registration of criminal case against the petitioner and others vide FIR no.169/2015 under Section 506, 427, 504 read with Section 34 of IPC. He was appointed inquiry officer vide office order No. HR/2015/536 dated 8.12.2015. After the initiation of inquiry proceedings were to be held on 8.3.2016, no complaint was made by petitioner about the charge-sheet, conduct of inquiry and Inquiry Officer. The petitioner was given sufficient opportunity to submit his defence and the inquiry was conducted as per the principles of natural justice and settled procedure as per law. He has alleges that petitioner tried to dictate his own terms and did not cooperate in the proceedings in any manner. He also alleges that despite opportunity that the petitioner failed to produce his defence evidence. He stated on oath that General Manager is competent to issue dismissal order.

16. All these witnesses in their cross-examination have admitted that charge-sheet was issued by General Manager Shri S.P. Acharya and he was cited as one of the witness in the list of witness vide Annexure-4. They also admitted that dismissal order was also issued by Shri S.P. Acharya. They admitted that Nitin Nagpal was appointed as presenting officer and he has also cited as witness in the list of witness. RW1 Shri Lek Raj Rana has admitted that inquiry was conducted in their office under the supervision of Shri S.P. Acharya.

17. Petitioner in his cross-examination has admitted that an FIR was registered against him and others. He has denied the allegations of quarrel with the company official during course of meeting however he denied that a proper inquiry was got conducted against him consequent to which he was terminated. He denied that inquiry was conducted in a right manner and asserted that he was not given opportunity to put his case.

18. RW3 Shri Vinod Kashyap has admitted that after suspension the petitioner was posted at Banuri Central Store and application of the petitioner to fix his headquarter was dismissed by the company. He himself admitted that an employee cannot be shifted out of cadre by the company.

19. RW3 Shri Vinod Kashyap has admitted that charge-sheet Ext. PW1/F was issued by Senior Manager Shri S.P. Acharya. He also admits in Annexure-4 of Ext. PW1/F Senior General Manager Sh. S.P. Acharya has been cited as witness no.1 and he specifically admits that as per rules, the charge-sheeting authority cannot appear as witness. He also admits that dismissal order dated 23.5.2016 Ext. PW1/P was also issued by GM S.P. Acharya.

20. Similarly he has admitted that Shri Nitin Nagpal was also cited as witness in Annexure-4 at serial no.6. He states that presenting officer did not appear as witness on behalf prosecution. He admits that he was transferred to head office Kolkata on the complaint of union, subsequently he has stated that he was also called back on their request.

21. The Hon'ble Supreme Court in **Mohd. Yunus Khan v. State of Uttar Pradesh, 2010 10 SCC 539** has held as follows:—

"**28.** In *Arjun Chaubey v. Union of India* [(1984) 2 SCC 578 : 1984 SCC (L&S) 290 : AIR 1984 SC 1356] a Constitution Bench of this Court dealt with an identical case wherein an employee serving in the Northern Railway had been dismissed by the Deputy Chief Commercial Superintendent on a charge of misconduct which concerned himself, after considering by himself the explanation given by the employee against the charge and after thinking that the employee was not fit to be retained in service. It was also considered whether in such a case, the Court should deny the relief to the employee, even if the Court comes to the conclusion that the order of punishment stood vitiated on the ground that the employee had been guilty of habitual acts of indiscipline/misconduct. This Court held that the order of dismissal passed against the employee stood vitiated as it was in utter disregard of the principles of natural justice. The main thrust of the charges against the employee related to his conduct qua the disciplinary authority itself, therefore, it was not open to the disciplinary authority to sit in judgment over the explanation furnished by the employee and decide against the delinquent. No person could be a judge in his own cause and no witness could certify that his own testimony was true. Anyone who had a personal stake in an enquiry must have kept himself aloof from the enquiry. The Court further held that in such a case it could not be considered that the employee did not deserve any relief from the Court since he was habitually guilty of acts subversive of discipline. The illegality from which the order of dismissal passed by the authority concerned suffered was of a character so grave and fundamental that the alleged habitual misbehaviour of the delinquent employee could not cure or condone it.

29. Thus, the legal position emerges that if a person appears as a witness in disciplinary proceedings, he cannot be an enquiry officer nor can he pass the order of punishment as a disciplinary authority. This rule has been held to be sacred. An apprehension of bias operates as a disqualification for a person to act as adjudicator. No person can be a judge in his own cause and no witness can certify that his own testimony is true. Anyone who has personal interest in the disciplinary proceedings must keep himself away from such proceedings. The violation of the principles of natural justice renders the order null and void.

22. The Hon'ble Supreme Court in **State of Uttar Pradesh v. Saroj Kumar Sinha, 2010 2 SCC 772** has also held as follows:—

"**27**. A bare perusal of the aforesaid sub-rule shows that when the respondent had failed to submit the explanation to the charge-sheet it was incumbent upon the inquiry officer to fix a date for his appearance in the inquiry. It is only in a case when the government servant despite notice of the date fixed failed to appear that the inquiry officer can proceed with the inquiry ex parte. Even in such circumstances it is incumbent on the inquiry officer to record the statement of witnesses mentioned in the charge-sheet. Since the government servant is absent, he would clearly lose the benefit of cross-examination of the witnesses. But nonetheless in order to establish the charges the Department is required to produce the necessary evidence before the inquiry officer. This is so as to avoid the charge that the inquiry officer has acted as a prosecutor as well as a judge.

28. An inquiry officer acting in a quasi-judicial authority is in the position of an independent adjudicator. He is not supposed to be a representative of the department/disciplinary authority/Government. His function is to examine the evidence presented by the Department, even in the absence of the delinquent official to see as to whether the unrebutted evidence is sufficient to hold that the charges are proved. In the present case the aforesaid procedure has not been observed. Since no oral evidence has been examined the documents have not been proved, and could not have been taken into consideration to conclude that the charges have been proved against the respondents.

30. When a departmental enquiry is conducted against the government servant it cannot be treated as a casual exercise. The enquiry proceedings also cannot be conducted with a closed mind. The inquiry officer has to be wholly unbiased. The rules of natural justice are required to be observed to ensure not only that justice is done but is manifestly seen to be done. The object of rules of natural justice is to ensure that a government servant is treated fairly in proceedings which may culminate in imposition of punishment including dismissal/removal from service."

23. The present case is peculiar circumstance of disciplinary authority conducting the disciplinary proceedings against its employees in violation of basic principles of natural justice. Shri S.P. Acharya the disciplinary authority, had issued a charge-sheet and also dismissal order of the petitioner. He became part of inquiry proceedings on the basis of his testimony, the inquiry report was prepared which led to the dismissal of the petitioner. The presenting officer or the prosecutor was cited as witness which implied that he had personal knowledge about the facts of the incident. However he conducted the inquiry as a presenting officer against the petitioner. In these circumstances by no stretch of imagination it can be considered that the inquiry was carried out in unbiased manner. Respondent violated the basic principles of natural justice "no one can be judge in his own cause"

24. RW3 Shri Vinod Kashyap has admitted that the petitioner was appointed by Director of the company Shri S.C. Sethi and post of Director of the company is senior to the GM. He denied that GM was not authorized to conduct the disciplinary proceedings but subsequently admitted that no such documents of authorization has been produced on record by the respondent. He did not deny that the witnesses were examined through telephone. He has not denied that petitioner is acquitted by criminal court on the same set of allegations qua which the inquiry was got conducted by the respondent against the petitioner.

25. The specific allegation made by the petitioner in his affidavit that he was not supplied with copy of inquiry report and that he was not paid subsistence allowance. Office order, regarding subsistence allowance of the petitioner has produced on record however there is no documentary evidence produced by the respondent that the subsistence allowance was released in favour of the petitioner. Similarly copy of the inquiry report has been produced in the case file and there are specific allegations of petitioner that the report was premature without proper conclusion of the inquiry. There is no date mentioned on inquiry report which lends support to the allegations of the petitioner regarding inquiry report being premature. No oral or documentary evidence has produced by respondent to show that the inquiry report was sent to the petitioner and was duly received by him before the show cause notice was issued to him by the respondent. The above facts lead to the conclusion that opportunity of being heard was not afforded to the petitioner by the respondent company. The Hon'ble Supreme Court in **Union of India vs. Ram Lakhan Sharma, (2018) 7 SCC 670** has laid down that when the workman was not supplied the inquiry report it amounted to violation of principle of natural justice. The Hon'ble Supreme Court in **J.K. Synthetics Ltd. vs. K.P. Agrawal, (2007) 2 SCC 433** has laid down the legal principle that if the termination from service is shown to be illegal and employee/workman was regularly appointed and had put substantial service he would be entitled to back wages along-with reinstatement.

26. In the circumstances of the present case also the respondent company has conducted the inquiry in a illegal manner and in violation of basic principle of natural justice. The appointment of Inquiry Officer, presenting officer and the witnesses examined during course of inquiry completely vitiated proceedings conducted against the petitioner. There are no circumstances to allow the management/company to lead additional evidence in support of the charges and allegations made against the petitioner. It is not denied that on similar facts and circumstances criminal proceedings against the petitioner have been concluded and he has been pronounced not guilty. Considering the oral facts and circumstances of this case it cannot be held that the inquiry proceedings were just fair and reasonable and in accordance with the principle of natural justice and issue no. 1(a) is decided in the favour of the petitioner.

Issue No. 1

27. The oral and documentary evidence which has been discussed in detail while deciding issue no.1 (a) clearly shows that the services of the petitioner were suspended and he was transferred from his place of work to different project site and subsequently the inquiry was not conducted in accordance with the principle of natural justice. Consequently the suspension and transfer of the petitioner vide letter dated 23.10.2015 and his termination dated 23.5.2016 are illegally sustainable. Issue No.1 is accordingly decided in the favour of petitioner.

Issues No. 2, 3, 4, 5 and 6

28. The onus of proving these issues was on the respondent. The maintainability of claim petition was challenged on the ground that the termination of services of petitioner was in accordance with disciplinary proceedings conducted as per law. The facts contrary to the same have emerged during course of evidence. There is nothing to establish that claim petition is barred by limitation and there were parties necessary to be joined for complete and effectual adjudication of dispute between the parties. Respondent has not been able to prove by leading evidence that petitioner by his act and conduct was estopped to file the claim and has suppressed the material facts from this court. The opportunity of leading evidence was given to petitioner as well as respondent even though issue pertaining to inquiry was framed subsequently. There is no enough evidence to establish above mentioned issues. Hence issues no. 2 to 6 are decided in the favour of the petitioner.

RELIEF

29. In view of my discussion on the issues no. 1 to 6 above, the claim petition succeeds and is partly allowed. The suspension of the petitioner and transfer vide letter dated 23.10.2015 consequent termination dated 23.5.2016 are declared to be illegal and consequently quashed. Petitioner is held entitled for reinstatement to his service on similar terms along-with compensation of Rs.2 lakh for the illegal conduct of the proceedings and illegal termination on behalf of respondent. Parties are left to bear their costs.

30. The reference is answered in aforesaid terms. A copy of this Award be sent to the appropriate Government for publication in the official gazette. File after due completion be consigned to the Record Room.

Announced in the open Court today, this 21st day of January, 2026.

Sd/-
(PARVEEN CHAUHAN),
Presiding Judge,
Labour Court-cum-*Industrial Tribunal,*
Kangra at Dharamshala (H.P.).

IN THE COURT OF PARVEEN CHAUHAN, PRESIDING JUDGE, LABOUR COURT-CUM-INDUSTRIAL TRIBUNAL, KANGRA AT DHARAMSHALA (H.P.)

Reference No. : 56/2018

Date of Institution : 6-6-2018

Date of Decision : 21-01-2026

Shri Sanjeev Kumar s/o Shri Hukam Chand, c/o AWA Power Company Private Limited Baijnath, Tehsil Baijnath, District Kangra, H.P. ..*Petitioner.*

Versus

1. The General Manager, AWA Power Company Private Baijnath, Tehsil Baijnath, District Kangra, H.P.

2. SPML ENERGY LTD., 22, Camac Street, Block-A, 3rd Floor, Kolkata-700061 through its Chairman/Director Shri S.C. Sethi. ..*Respondents.*

Reference under Section 10 (1) of the Industrial Disputes Act, 1947

For the Petitioner : Sh. Rajinder Thakur, Ld. Adv.

For Respondent : Sh. Tarun Sharma, Ld. Adv.

AWARD

The following industrial disputes has been received by this court for the purpose of adjudication from the appropriate authority/Deputy Labour Commissioner:—

"Whether termination of the services of Shri Sanjeev Kumar s/o Shri Hukam Chand, c/o AWA Power Company Private Limited Baijnath, Tehsil Baijnath, District Kangra, H.P. by the General Manager, AWA Power Company Private Limited Baijnath, Tehsil Baijnath, District Kangra, H.P. on account of suspension and transfer vide letter dated 23-10-2015, without complying with the provisions of the Industrial Disputes Act, 1947, is legal and justified? If not, what amount of back wages, seniority, past service benefits and compensation the above worker is entitled to from the above employer/Management?"

2. The brief facts as stated in the claim petition are that applicant was initially appointed as a casual Driver in Binwa Power Company Private Limited in the month of June, 2009 and thereafter he was appointed as Driver on regular basis vide an appointment letter dated 23.6.2011 issued by respondent no.2 at the same place but later on the applicant was ordered to be transferred to Luni Power Company Private Limited. Applicant/petitioner discharged his duties sincerely and faithfully with respondent company throughout. The applicant was placed under suspension by respondent no.1 vide order dated 23.10.2015 on the ground of contemplated enquiry against the applicant and the Head Quarter of applicant was ordered to be fixed at IQU Project site. It is asserted that the applicant was working in Luni Power Company Private Limited being aggrieved with fixation of HQ at IQU Project site, he submitted a representation dated 9.11.2015 to respondent no.1 regarding to fix HQ of applicant at Luni Power Company Ltd. It is asserted that

respondent was supposed to take into consideration genuine request of applicant but respondent no.1 acted contrary and turned down the request of applicant. It is alleged that respondent no.1 appointed Inquiry Officer and Presenting Officer vide letters dated 8.12.2015 to enquire the alleged charges framed against the applicant however no such charges were framed against the applicant by that time. Vide memorandum dated 22.12.2015 respondent no.1 served a charge-sheet upon the applicant with false distorted allegations that the applicant was allegedly found involved in the acts/conduct prejudicial to the reputation and interest of the management during his service from 1.1.2011 to 23.10.2015. It is alleged that the applicant was found involved in riotous, criminal offensive and disorderedly behaviour on 14.10.2015 when a meeting between local management and union members was going on in the office of respondent no.1 at Baijnath. It is mentioned in the charge sheet that the applicant allegedly did not join at HQ fixed during suspension. After receiving the charge-sheet the applicant submitted an application dated 30.12.2015 to respondent no.1 seeking extension of time to file the reply to the charge-sheet but vide letter dated 4.1.2016 the respondent no.1 had rejected the genuine request of the applicant. It is asserted that the Annexure-4 of charge-sheet dated 22.12.2015 Shri S.P. Acharya, the respondent no.1 was shown a witness at serial no.1 who himself was the Senior General Manager who issued the charge-sheet to the applicant. Vide order dated 8.12.2015 respondent no.1 had appointed Shri Vinod Kashyap as an Inquiry Officer who previously was working as Senior Manager in the respondent company and as such the objection raised by the union as well as the applicant being member of unit of the union, Shri Vinod Kashyap was shifted from Himachal Pradesh but now Shri Vinod Kashyap was appointed as Inquiry Officer to conduct the enquiry against the applicant. It is asserted that Annexure-4 of the charge-sheet shows Shri Nitin Nagpal as witness no.6 whereas Shri Nitin Nagpal himself was appointed as Presenting Officer by the respondent no.2 vide order dated 8.12.2015 ignoring all the provisions of law. It is asserted that the charge-sheet as well as action of respondent no.1 with regard to appointment of Shri Vinod Kashyap as Inquiry Officer and Shri Nitin Nagpal as Presenting Officer were entirely vague, unreasonable, illegal and unjustified and as such the applicant objected the same but as per directions of respondent no.1 Shri Vinod Kashyap, Inquiry Officer started the proceedings of enquiry and vide letter dated 5.1.2016 applicant was directed to attend the enquiry on 15.1.2016 in the office of respondent no.1 at Baijnath. It is alleged that Inquiry Officer had conducted enquiry in the office of respondent no.1 under the direct supervision of respondent no.1. On the next date of enquiry which was fixed on 18.1.2016 vide application dated 19.1.2016 the applicant had appointed Shri Ravi Thakur as his defence assistant. It is alleged that Inquiry Officer had adopted a vindictive attitude against the applicant and was trying to record the statements of the witnesses in the absence of the applicant as well as his defence assistant. It is asserted that the applicant had submitted an application dated 9.3.2016 to respondent no.1 with regard to attitude of Inquiry Officer and requested him to change Inquiry Officer in order to maintain transparency in the enquiry. It is asserted that respondents did not release subsistence allowance to applicant during suspension period and as such the applicant had submitted successive representations to the Labour Officer but was in vain. It is asserted that respondent no.1 rejected the request of applicant. It is asserted that inquiry officer had told the applicant he was told that he will be informed about the next date of enquiry separately. However the applicant received a show cause notice dated 10.5.2016 issued by respondent no.1 wherein it was mentioned that Inquiry Officer had submitted inquiry report and the charges were allegedly proved against the applicant and he (applicant/petitioner) had replied to the show cause notice on dated 21.5.2016. It is alleged that respondent no.1 acted in arbitrary manner and vide order dated 23.5.2016 the services of the petitioner were dismissed from respondent company w.e.f. 23.5.2016. Thereafter applicant served a demand notice dated 21.6.2016 upon the respondents with a copy to Labour Officer, Kangra District at Dharamshala and proceedings were started by the Labour Officer but respondent did not put their appearance before the conciliation officer. It is alleged that charge-sheet dated 22.12.2015 was vague and defective and the same was invalid as the charge-sheet was issued by respondent no.1, Sr. General Manager who was incompetent authority as the proceedings could not be carried out on the basis of the same charge sheet. It is alleged that charge-sheet was framed and

the proceedings were carried out in gross violation of the provisions of the Rules and principles of natural justice. It is prayed that the order dated 23.5.2016 issued by respondent no.1, Sr. General Manager may be quashed and applicant may be ordered to be reinstated in the post of Executive Admn. along-with all consequential benefits i.e. seniority and back wages etc. along-with interest of 18% per annum.

3. In reply to the claim petition filed on behalf of respondents preliminary objections qua maintainability, claim being bad for non-joinder of necessary parties, estopple etc. have been raised. On merits, it is asserted that the applicant was appointed as Driver vide letter dated 23.6.2011 w.e.f. 1.7.2011 at Binwa Power Company Pvt. Ltd. on compensation and other benefits as per the entitlements specified in the company policy. It is denied that the petitioner had discharged his duty sincerely and faithfully with the respondents. It is asserted that as per policy of company the employment of applicant was subject to terms and conditions which are specified to the knowledge of the applicant. It is alleged that applicant was placed under suspension a per the policy of the company as proposed inquiry contemplated against him for his gross misconduct, misdemeanour, subversion of discipline and his reiterative indulgence to vandalize and damage the property of the company and intimidation of managerial personnel of the company. It is asserted that after receiving office orders No. Ref/Luni/HR/217 dated 23.10.2015 the applicant did not report till 3.11.2015 as the HQ fixed during suspension. The applicant had wrongly interpreted the Office Order dated 8.12.2015. It is denied that the applicant was charge-sheeted with false and distorted allegations. It was mentioned that meeting took place on 14.10.2015 between the workers and management in Baijnath when deliberation on common issue were going on peacefully the applicant and two other employees Ravi Thakur and Saurabh Khatri hobnobbed and colluded with each other and they were furious and violent without any rhyme and reason. The applicant and others formed an unlawful assembly started manhandling the managerial personnel and they also indulged in vandalizing and damaging the property of the respondent concern. They badly intimidated the managerial personnel of the company and threw article in the room on the manager. They threatened the managerial personnel with dire consequences and also threatened to harm the project or the management at work in Himachal Pradesh. The matter was reported to Police Station Baijnath and FIR Number 169/2015 under Section 506, 427, 504 and 34 of Indian Penal Code was registered against applicant and his associates. It is asserted that charge-sheet was issued to applicant vide office memo number Luni/HP/333 dated 22.12.2015 as well as Presenting Officer and Inquiry Officer were also appointed in the inquiries. Due opportunity was afforded to applicant to submit his statement of defense on the charges enumerated in the charge-sheet but no reply was received despite extension to submit the reply. It is asserted that sufficient opportunity was given to applicant to submit his defense and after enquiry period given for the purpose the enquiry process was started against the applicant. It is denied that appointment of Shri Vinod Kashyap and Shri Nitin Nagpal as I.O. and P.O. were vague, unreasonable and illegal etc. It is denied that the I.O. had proposed to conduct the enquiry under the direct supervision of the respondent no.1 and the applicant was dictated by the I.O. to conduct proceeding as per his own choice. It is denied that any amount due to the applicant was withheld unreasonably. It is further denied that the enquiry was not conducted as per principle of natural justice and the Inquiry Officer was biased against the applicant. It is denied that on 12.4.2016 the applicant and his defense assistant appeared before the Inquiry Officer. It is asserted that the charged workers were asked to file the list of witnesses on the basis of statement but they failed to do so. It is asserted that the applicant was given several chances for the same but on every chance he promised to file the same and produce the witnesses but failed to do so under one pretext or the another. It is asserted that the defense was closed only after given several opportunities to the applicant to file list of witnesses. Other parawise averments made in the petition were denied and it is prayed that claim petition be dismissed.

4. In rejoinder preliminary objections were denied facts stated in the petition are reasserted and reaffirmed.

5. On the basis of the pleadings of the parties, the following issues were framed for adjudication and determination:—

1. Whether the petitioner was illegally and unjustifiably terminated by the respondent on account of suspension and transfer vide letter dated 23-10-2015, as alleged. If so, its effect? ..*OPP.*

2. Whether the claim petition is not maintainable, as alleged? ..*OPR.*

3. Whether the present claim petition is time barred, as alleged? ..*OPR.*

4. Whether the claim petition is bad for non-joinder and mis-joinder of the parties, as alleged? ..*OPR.*

5. Whether the petitioner is estopped to file the present claim by his act, conduct and acquiescence, as alleged? ..*OPR.*

6. Whether the petitioner has not come to this Court with clean hands and has suppressed the material facts, as alleged? ..*OPR.*

Relief.

6. During the course of arguments that essential issue between the parties regarding legality of the enquiry had not been framed. The averments made in the reply pointed towards the fact that termination of the petitioner was in consequence to inquiry conducted by the respondent against the petitioner. In the presence of the parties and learned counsel, the following additional issue is framed a under:—

1(a). Whether the inquiry conducted by the respondent against the petitioner was fair, proper, justified and in accordance with the principle of natural justice, as claimed? ..*OPR.*

Relief.

7. The petitioner has examined himself as PW1 and produced on record his affidavit Ext. PW1/A wherein he has reiterated the facts as stated in the claim. He has also produced on record copy of appointment letter Ext. PW1/B, copy of office order dated 23.10.2015 Ext. PW1/C, copy of application dated 19.11.2015 Ext. PW1/D, copy of office order dated 8.12.2015 Ext. PW1/E, copy of office order dated 8.12.2015 Ext. PW1/F, copy of memorandum dated 22.12.2015 Ext. PW1/G, copy of application dated 30.12.2015 Ext. PW1/H, copy of letter dated 4.1.2016 Ext. PW1/J, copy of letter dated 5.1.2016 Ext. PW1/K, copy of letter dated 16.1.2016 Ext. PW1/L, copy of withdrawal of charge sheet dated 15.3.2016 Ext. PW1/L1, copy of show cause notice dated 10.5.2016 Ext. PW1/M, copy of reply to show cause notice dated 21.5.2016 Ext. PW1/N, copy of dismissal order Ext. PW1/P, copy of demand notice Ext. PW1/R, copy of letter dated nill Mark-A, copy of application dated 22.12016 Mark B, copy of statement dated 22.1.2016 Mark C, copy of statements dated 22.1.2016 Mark D, copy of statement dated 9.3.2016 Mark E & F, copy of application dated 4.4.2016 Mark-G and copy of statement dated 16.3.2016 Mark H.

8. Respondent on the other hand has examined Shri Vinod Kashyap s/o Late Shri Biru Ram, Sr. Manager by way of affidavit Ext. RW1/A wherein he has reiterated the facts as stated in the reply. He has also produced on record copy of appointment letter Ext. RW1/B, copy of office order dated 23.10.2015 Ext. RW1/C, copy of suspension order dated 3.11.2015 Ext. RW1/D, copy

of letter dated 21.11.2015 Ext. RW1/E, copy of FIR Ext. RW1/F, copy of charge sheet Ext. RW1/G, copy of office order dated 8.12.2015 Ext. RW1/H, copy of office order dated 8.12.2015 Ext. RW1/J, copy of letter dated 5.1.2016 Ext. RW1/K, copy of letter dated 16.1.2016 Ext. RW1/L, copy of letter dated 15.3.2016 Ext. RW1/M, copy of inquiry proceeding dated 15.1.2016 Ext. RW1/N, copy of inquiry report Ext. RW1/O, copy of show cause notice dated 10.5.2016 Ext. RW1/P and copy of dismissal order dated 23.5.2016 Ext. RW1/Q.

9. I have heard the learned Counsel for both the parties at length and records perused.

10. For the reasons to be recorded hereinafter while discussing the issues for determination, my findings thereon are as under:—

Issue No. 1	: Yes
Issue No. 1(a)	: No
Issue No. 2	: No
Issue No. 3	: No
Issue No. 4	: No
Issue No. 5	: No
Issue No. 6	: No
Relief.	: Claim petition is partly allowed per operative portion of the Award.

REASONS FOR FINDINGS

Issue No. 1(a)

11. Issue No. 1 (a) shall be taken up for adjudication as preliminary issue with respect to dispute between the parties.

12. That the petitioner was appointed as driver by the respondents on 23.6.2011 vide Ext. RW1/B is not disputed fact. He was placed under suspension on 23.10.2015 after the office order dated 23.10.2015 Ext. RW1/C. The affidavit Ext. PW1/A sworn by the petitioner alleges violation of the principle of natural justice and fair play in the conduct of an inquiry by the respondents.

13. Petitioner has submitted an application on 30.12.2015 seeking extension of time to reply to the charge-sheet which was declined vide letter dated 4.6.2016. The Manager who has acted as disciplinary authority was shown in the list of witnesses prepared by the disciplinary authority. Vide order dated 8.12.2015 Shri Vinod Kashyap was appointed as Inquiry Officer who was earlier Senior Manager of respondent company. He was shifted from Himachal Pradesh on the objection raised by the union of employees. Shir Nitin Nagpal was mentioned in the list of witnesses as witness no.6 and he was appointed as Presenting Officer by respondent no.1. It is argued by the learned counsel for the petitioner that the charge-sheet and role of Shri Vinod Kashyap as an Inquiry Officer and Nitin Nagpal as Presenting Officer was unreasonable, illegal, unjustified and in violation of the basic tenets of natural justice.

14. Petitioner has also alleged that he was compelled to submit the list of defence witnesses even before the Inquiry Officer was about start prosecution evidence. He alleges that Inquiry Officer misbehaved with him and asked him to leave his office. Petitioner alleged that on 9.3.2016 Inquiry Officer had adopted vindictive attitude against the petitioner and tried to record the statements of witnesses in absence of petitioner. Despite the request of defence assistant of petitioner to keep up the enquiry in abeyance till the change of Inquiry Officer the Inquiry Officer continued with the proceedings. This itself exhibited blatant manner in which the inquiry was conducted by the Inquiry Officer. It was brought on the record by the Inquiry Officer that the defence assistant of petitioner was given an opportunity to cross-examine the witnesses but no witness was present on 16.3.2016. It is alleged that the representation of petitioner to withdraw the charge-sheet and change the Inquiry Officer was also not properly entertained by the respondents. On 10.5.2016 the show cause notice was received by the petitioner but the reply of petitioner was not considered by the respondents and he was dismissed from service as on 23.5.2016. Petitioner has alleged that he not only faced unnecessary inquiry but respondent did not release his subsistence allowance. He alleges that the inquiry was conducted without given opportunity of being heard and in violation of the principles natural justice. He alleges that Inquiry Officer had biased attitude towards the petitioner and acted like a prosecutor during the course of proceedings. The inquiry report was defective and premature as Inquiry Officer had submitted his report without affording an opportunity to the petitioner to cross-examine the prosecution witnesses. The copy of inquiry report was not supplied to the petitioner. Petitioner has prayed that the order of suspension and termination made by the respondents need to be quashed being result of an inquiry which was not conducted by way of natural justice and basic tenets of law.

15. Respondent has solely put foward their case on the basis of statement of Inquiry Officer RW1 Shri Vinod Kashyap who was also Senior Manager in SPML group in the year 2015. He has deposed about the terms of employment of the petitioner and the disciplinary proceedings undertaken for the allegations of gross misconduct, misdemeanour, subversion of discipline and his repeated indulgence to vandalize and damage of the company. He also deposed about registration of criminal case against the petitioner and others vide FIR no.169/2015 under Section 506, 427, 504 read with Section 34 of IPC. He was appointed investigating officer vide office order No. HR/2015/536 dated 8.12.2015. After the initiation of inquiry proceedings were to be held on 8.3.2016, no complaint was made by petitioner about the charge-sheet, conduct of inquiry and Inquiry Officer. The petitioner was given sufficient opportunity to submit his defence and the inquiry was conducted as per the principles of natural justice and settled procedure as per law. He has alleges that petitioner tried to dictate his own terms and did not cooperate in the proceedings in any manner. He also alleges that despite opportunity the petitioner failed to produce his defence evidence. He stated on oath that General Manager is competent to issue dismissal order.

16. Petitioner in his cross-examination has admitted that an FIR was registered against him and others. He has denied the allegations of scuffle with the company official during course of meeting however he admits that inquiry was got conducted against him which was attended by him He admitted that inquiry was conducted in a right manner and he was pronounced guilty which led his termination.

17. RW1 Shri Vinod Kashyap has admitted that after suspension the petitioner was posted at IQU Power Project site and application of the petitioner to fix his headquarter was dismissed by the company. He himself admitted that an employee cannot be shifted out of cadre by the company.

18. RW1 Shri Vinod Kashyap has admitted that charge-sheet Ext. PW1/G was issued by Senior Manager Shri S.P. Acharya. He also admits in Annexure-4 of Ext. PW1/G Senior General Manager Sh. S.P. Acharya has been cited as witness no.1 and he specifically admits that as per rules, the charge-sheeting authority cannot appear as witness. He also admits that dismissal order dated 23.5.2016 Ext. PW1/P was also issued by GM S.P.Acharya.

19. Similarly he has admitted that Shri Nitin Nagpal was also cited as witness in Annexure-4 at serial no.6. He states that presenting officer did not appear as witness on behalf prosecution. He admits that he was transferred to head office Kolkata on the complaint of union, subsequently he has stated that he was also called back on their request.

20. The Hon'ble Supreme Court in **Mohd. Yunus Khan v. State of Uttar Pradesh, 2010 10 SCC 539** has held as follows:—

> "**28.** In *Arjun Chaubey v. Union of India* [(1984) 2 SCC 578 : 1984 SCC (L&S) 290 : AIR 1984 SC 1356] a Constitution Bench of this Court dealt with an identical case wherein an employee serving in the Northern Railway had been dismissed by the Deputy Chief Commercial Superintendent on a charge of misconduct which concerned himself, after considering by himself the explanation given by the employee against the charge and after thinking that the employee was not fit to be retained in service. It was also considered whether in such a case, the Court should deny the relief to the employee, even if the Court comes to the conclusion that the order of punishment stood vitiated on the ground that the employee had been guilty of habitual acts of indiscipline/misconduct. This Court held that the order of dismissal passed against the employee stood vitiated as it was in utter disregard of the principles of natural justice. The main thrust of the charges against the employee related to his conduct qua the disciplinary authority itself, therefore, it was not open to the disciplinary authority to sit in judgment over the explanation furnished by the employee and decide against the delinquent. No person could be a judge in his own cause and no witness could certify that his own testimony was true. Anyone who had a personal stake in an enquiry must have kept himself aloof from the enquiry. The Court further held that in such a case it could not be considered that the employee did not deserve any relief from the Court since he was habitually guilty of acts subversive of discipline. The illegality from which the order of dismissal passed by the authority concerned suffered was of a character so grave and fundamental that the alleged habitual misbehaviour of the delinquent employee could not cure or condone it.
>
> **29.** Thus, the legal position emerges that if a person appears as a witness in disciplinary proceedings, he cannot be an enquiry officer nor can he pass the order of punishment as a disciplinary authority. This rule has been held to be sacred. An apprehension of bias operates as a disqualification for a person to act as adjudicator. No person can be a judge in his own cause and no witness can certify that his own testimony is true. Anyone who has personal interest in the disciplinary proceedings must keep himself away from such proceedings. The violation of the principles of natural justice renders the order null and void.

21. The Hon'ble Supreme Court in **State of Uttar Pradesh v. Saroj Kumar Sinha, 2010 2 SCC 772** has also held as follows:—

> "**27**. A bare perusal of the aforesaid sub-rule shows that when the respondent had failed to submit the explanation to the charge-sheet it was incumbent upon the inquiry officer to fix a date for his appearance in the inquiry. It is only in a case when the government servant despite notice of the date fixed failed to appear that the inquiry officer can proceed with the inquiry ex parte. Even in such circumstances it is incumbent on the inquiry officer to record the statement of witnesses mentioned in the charge-sheet. Since the government servant is absent, he would clearly lose the benefit of cross-examination of the witnesses. But nonetheless in order to establish the charges the Department is required to produce the necessary evidence before the inquiry officer. This is so as to avoid the charge that the inquiry officer has acted as a prosecutor as well as a judge.

28. An inquiry officer acting in a quasi-judicial authority is in the position of an independent adjudicator. He is not supposed to be a representative of the department/disciplinary authority/Government. His function is to examine the evidence presented by the Department, even in the absence of the delinquent official to see as to whether the unrebutted evidence is sufficient to hold that the charges are proved. In the present case the aforesaid procedure has not been observed. Since no oral evidence has been examined the documents have not been proved, and could not have been taken into consideration to conclude that the charges have been proved against the respondents.

30. When a departmental enquiry is conducted against the government servant it cannot be treated as a casual exercise. The enquiry proceedings also cannot be conducted with a closed mind. The inquiry officer has to be wholly unbiased. The rules of natural justice are required to be observed to ensure not only that justice is done but is manifestly seen to be done. The object of rules of natural justice is to ensure that a government servant is treated fairly in proceedings which may culminate in imposition of punishment including dismissal/removal from service."

22. The present case is peculiar circumstance of disciplinary authority conducting the disciplinary proceedings against its employees in violation of basic principles of natural justice. Shri S.P. Acharya the disciplinary authority had issued a charge-sheet and also dismissal order of the petitioner Ext. PW1/P. He became part of inquiry proceedings on the basis of his testimony as prosecution witness No.1. The inquiry report was prepared which led to the dismissal of the petitioner. The presenting officer or the prosecutor was cited as witness which implied that he had personal knowledge about the facts of the incident. However he conducted the inquiry as a presenting officer against the petitioner. In these circumstances by no stretch of imagination it can be considered that the inquiry was carried out in unbiased manner. Respondent violated the basic principles of natural justice "no one can be judge in his own cause"

23. RW1 Shri Vinod Kashyap has admitted that the petitioner was appointed by Director of the company Shri S.C. Sethi and post of Director of the company is senior to the GM. He denied that GM was not authorized to conduct the disciplinary proceedings but subsequently admitted that no such documents of authorization has been produced on record by the respondent. He did not deny that the witnesses were examined through telephone. He has not denied that petitioner is acquitted by criminal court on the same set of allegations qua which the inquiry was got conducted by the respondent against the petitioner.

24. The specific allegation made by the petitioner in his affidavit that he was not supplied with copy of inquiry report and that he was not paid subsistence allowance. Office order, regarding subsistence allowance of the petitioner has produced on record however there is no documentary evidence produced by the respondent that the subsistence allowance was released in favour of the petitioner. Similarly copy of the inquiry report has been produced in the case file and there are specific allegations of petitioner that the report was premature without proper conclusion of the inquiry. There is no date mentioned on inquiry report which lends support to the allegations of the petitioner regarding inquiry report being premature. No oral or documentary evidence has been produced by respondent to show that the inquiry report was sent to the petitioner and was duly received by him before the show cause notice was issued to him by the respondent. The above facts lead to the conclusion that opportunity of being heard was not afforded to the petitioner by the respondent company. The Hon'ble Supreme Court in **Union of India vs. Ram Lakhan Sharma, (2018) 7 SCC 670** has laid down that when the workman was not supplied the inquiry report it amounted to violation of principle of natural justice. The Hon'ble Supreme Court in **J.K. Synthetics Ltd. vs. K.P. Agrawal, (2007) 2 SCC 433** has laid down the legal principle that if the termination from service is shown to be illegal and employee/workman was regularly appointed and had put substantial service he would be entitled to back wages along-with reinstatement.

25. In the circumstances of the present case also the respondent company has conducted the inquiry in a illegal manner and in violation of basic principle of natural justice. The appointment of Inquiry Officer, presenting officer and the witnesses examined during course of inquiry completely vitiated proceedings conducted against the petitioner. There are no circumstances to allow the management/company to lead additional evidence in support of the charges and allegations made against the petitioner. It is not denied that on similar facts and circumstances criminal proceedings against the petitioner have been concluded and he has been pronounced not guilty. Considering the oral facts and circumstances of this case it cannot be held that the inquiry proceedings were just fair and reasonable and in accordance with the principle of natural justice and issue no. 1(a) is decided in the favour of the petitioner.

Issue No. 1

26. The oral and documentary evidence which has been discussed in detail while deciding issue no.1 (a) clearly shows that the services of the petitioner were suspended and he was transferred from his place of work to different project site and subsequently the inquiry was not conducted in accordance with the principle of natural justice. Consequently the suspension and transfer of the petitioner vide letter dated 23.10.2015 and his termination dated 23.5.2016 are not legally sustainable. Issue No.1 is accordingly decided in the favour of petitioner.

Issues No. 2, 3, 4, 5 and 6

27. The onus of proving these issues was on the respondent. The maintainability of claim petition was challenged on the ground that the termination of services of petitioner was in accordance with disciplinary proceedings conducted as per law. The facts contrary to the same have emerged during course of evidence. There is nothing to establish that claim petition is barred by limitation and there were essential parties necessary to be joined for complete and effectual adjudication of dispute between the parties. Respondent has not been able to prove by leading evidence that petitioner by his act and conduct was estopped to file the claim and has suppressed the material facts from this court. The opportunity of leading evidence was given to petitioner as well as respondent even though issue pertaining to inquiry was framed subsequently. There is no enough evidence to establish above mentioned issues. Hence issues no. 2 to 6 are decided in the favour of the petitioner.

RELIEF

28. In view of my discussion on the issues no. 1 to 6 above, the claim petition succeeds and is partly allowed. The suspension of the petitioner and transfer vide letter dated 23.10.2015 and consequent termination dated 23.5.2016 are declared to be illegal and consequently quashed. Petitioner is held entitled for reinstatement to his service on similar terms along-with compensation of Rs.2 lakh for the illegal conduct of the proceedings and illegal termination on behalf of respondent. Parties are left to bear their costs.

29. The reference is answered in aforesaid terms. A copy of this Award be sent to the appropriate Government for publication in the official gazette. File after due completion be consigned to the Record Room.

Announced in the open Court today, this 21st day of January, 2026.

Sd/-
(PARVEEN CHAUHAN),
Presiding Judge,
Labour Court-cum-*Industrial Tribunal,*
Kangra at Dharamshala (H.P.).

IN THE COURT OF PARVEEN CHAUHAN, PRESIDING JUDGE, LABOUR COURT-CUM-INDUSTRIAL TRIBUNAL, KANGRA AT DHARAMSHALA (H.P.)

Reference No. : 04/2018

Date of Institution : 19-2-2018

Date of Decision : 21-1-2026

Shri Ravi Thakur s/o Shri Barfi Ram, r/o Village Ghamrota, Tehsil Palampur, District Kangra, H.P. ..*Petitioner.*

Versus

1. The General Manager, IQU Power Company Private Baijnath, Tehsil Baijnath, District Kangra, H.P.

2. SPML ENERGY LTD., 22, Camac Street, Block-A, 3rd Floor, Kolkata-700061 through its Chairman/Director Shri S.C. Sethi. ..*Respondents.*

Reference under Section 10 (1) of the Industrial Disputes Act, 1947

For the Petitioner : Sh. Rajinder Thakur, Ld. Adv.

For Respondent : Sh. Tarun Sharma, Ld. Adv.

AWARD

The following industrial disputes has been received by this court for the purpose of adjudication from the appropriate authority/Deputy Labour Commissioner:—

> "Whether termination of the services of Shri Ravi Thakur s/o Shri Barfi Ram, r/o Village Ghamrota, Tehsil Palampur, District Kangra, H.P. by the General Manager, IQU Power Company Private Limited Baijnath, Tehsil Baijnath, District Kangra, H.P. on account of suspension and transfer order dated 09-11-2015, without complying with the provisions of the Industrial Disputes Act, 1947, is legal and justified? If not, what amount of back wages, seniority, past service benefits and compensation the above worker is entitled to from the above employer/Management?"

2. The brief facts as stated in the claim petition are that applicant was appointed as Supervisor in the month of December, 2006 by the respondents and the applicant discharged his duties sincerely and faithfully with the respondents. While applicant was working as Senior Fitter, he was placed under suspension by respondent no.1 vide order dated 23.10.2015 on the ground of contemplated enquiry against the applicant and the Head Quarter of applicant was ordered to be fixed at Luni Project site whereas the applicant had working at IQU Power Company. It is asserted that the applicant was appointed by IQU Power Company Pvt. Ltd. and as such being aggrieved with fixation of HQ at Luni Power Company he submitted a representation dated 9.11.2015 to respondent no.1 to fix HQ of applicant at IQU Power Company Ltd. It is asserted that respondent was supposed to take into consideration genuine request of applicant but respondent no.1 acted contrary vide letter dated 21.11.2015 and turned down the request of applicant. Thereafter

respondent no.1 vide memorandum dated 22.12.2015 served a charge-sheet upon the applicant with the false and distorted allegations as the applicant was found involved in acts/conduct prejudicial to the reputation and interest of the management during his service from 1.2.2008 to 23.10.2015. It was alleged that the applicant was found involved in riotous, criminal offensive and disorderedly behaviour on 14.10.2015 when a meeting between local management and union members was going on in the office of respondent no.1 at Baijnath. It was mentioned in the charge sheet that the applicant did not join HQ fixed during his suspension. In charge-sheet dated 22.12.2016 Sh. S.P. Acharya was shown a witness at serial No.1 who was the Senior General Manager who had issued the charge-sheet. It is asserted that respondent no.1 vide order dated 8.12.2015 had appointed Shri Vinod Kashyap as an Inquiry Officer who previously was working as Senior Manager in the respondent company and as such the objection raised by the union as well as the applicant being member of unit of the union, Shri Vinod Kashyap was shifted from Himachal Pradesh but now Shri Vinod Kashyap was appointed as Inquiry Officer to conduct the enquiry against the applicant. It is asserted that Annexure-4 of the charge-sheet shows Shri Nitin Nagpal as witness no.6 whereas Shri Nitin Nagpal himself was appointed as Presenting Officer by the respondent no.1 ignoring all the provisions of law. It is asserted that the charge-sheet as well as action of respondent no.1 with regard to appointment of Shri Vinod Kashyap as Inquiry Officer and Shri Nitin Nagpal as Presenting Officer were entirely vague, unreasonable, illegal and unjustified and as such the applicant objected the same but as per directions of respondent no.1 Shri Vinod Kashyap, Inquiry Officer started the proceedings of enquiry and vide letter dated 5.1.2016 applicant was directed to attend the enquiry on 11.1.2016 in the office of respondent no.1 at Baijnath. It is alleged that Inquiry Officer had conducted enquiry in the office of respondent no.1 under the direct supervision of respondent no.1. It is asserted that enquiry was conducted ignoring the provisions of law and canons of justice and as such applicant was in protest to refuse and receive the letter dated 5.1.2016 sent under registered cover. The Inquiry Officer vide letter dated 16.1.2016 directed applicant to attend the enquiry on 28.1.2016. On the next date of enquiry which was fixed on 28.1.2016 the applicant requested the Inquiry Officer that he want to have assistance of a defense assistant in the enquiry proceedings and thereafter enquiry proceedings were fixed for 18.2.2016 and as such the applicant and defense assistant Shri Sushil Kumar were appeared and Inquiry Officer has recorded the statements of three witnesses were recorded of his own style. It is alleged that charge-sheet was vague and the Inquiry Officer was appointed with a clear motive to cause damage to applicant and as such applicant submitted representation dated 8.3.2016 to respondent no.1 with regard to withdraw the charge sheet and remove the Inquiry Officer and copy of the same was sent to the Labour Officer but was in vain. It is asserted that respondent no.1 rejected the request of applicant and inquiry officer issued a letter dated 11.3.2016 directed the applicant to participate in enquiry or the Inquiry Officer would keep the enquiry proceedings on uninterruptedly exparte. It is asserted that the Inquiry Officer has mentioned in the letter dated 18.3.2016 that the applicant had given three opportunities earlier in order to lead his evidence whereas the evidence on behalf of disciplinary authority was not completed by the Inquiry Officer. However, the applicant was also compelled by the Inquiry Officer to submit the list of defence witnesses as the evidence of prosecution was not completed. It is asserted that the applicant received a show cause notice dated 10.5.2016 issued by respondent no.1 wherein it was mentioned that Inquiry Officer had submitted inquiry report and the charges were allegedly proved against the applicant and he (applicant/petitioner) had replied to the show cause notice on dated 21.5.2016. It is alleged that respondent no.1 acted in arbitrary manner and vide order dated 23.5.2016 the services of the petitioner were dismissed from respondent company w.e.f. 23.5.2016. Thereafter applicant served a demand notice dated 6.6.2016 upon the respondents with a copy to Labour Officer, Kangra District at Dharamshala and proceedings were started by the Labour Officer but respondents instead of cooperating the proceeding sent a letter dated 28.6.2016 to Conciliation Officer-*cum*-Labour Officer regarding denying the claim of the applicant and respondents did not put their appearance before the conciliation officer. It is alleged that charge-sheet dated 22.12.2015 was vague and defective and the same was invalid as the charge-sheet was issued by respondent no.1, Sr. General

Manager who was incompetent authority as the proceedings could not be carried out on the basis of the same charge sheet. It is alleged that charge-sheet was framed and the proceedings were carried out was in gross violation of the provisions of the Rules and principles of natural justice. It is prayed that the order dated 23.5.2016 issued by respondent no.1, Sr. General Manager may be quashed and applicant may be ordered to be reinstated in the post of Senior Fitter along-with all consequential benefits i.e. seniority and back wages etc. along-with interest of 18% per annum.

3. In reply to the claim petition filed on behalf of respondents preliminary objections qua maintainability, claim being bad for non-joinder of necessary parties, estopple etc. have been raised. On merits, it is asserted that the applicant was appointed as Supervisor in IQU Power Company Pvt. Ltd. on compensation and other benefits as per the entitlements specified in the company policy. It is denied that the petitioner had discharged his duty sincerely and faithfully with the respondents. It is asserted that as per policy of company the employment of applicant was subject to terms and conditions which are specified to the knowledge of the applicant. It is alleged that applicant was placed under suspension a per the policy of the company as inquiry was contemplated against him for his gross misconduct, misdemeanour, subversion of discipline and his reiterative indulgence to vandalize and damage the property of the company and intimidation of managerial personnel of the company. It is asserted that after receiving orders No.IQU/HR/216 dated 23.10.2015 the applicant did not report till 31.12.2015 at the HQ fixed during suspension. He was repeatedly asked to do so but the applicant had failed and his act also amounted to disobedience and non compliance to the orders of management. It is denied that the applicant was charge-sheeted with false and distorted allegations. It was mentioned that meeting was took place on 14.10.2015 between the workers and management in Baijnath when deliberation on common issue were going on peacefully however applicant and two other employees Sanjeev Kumar, driver and Saurabh Khatri, Jr. Executive Stores had hobnobbed and colluded with each other and they were furious and violent without any rhyme and reason. The applicant and other formed an unlawful assembly started manhandling the managerial personnel and they also indulged in vandalizing and damaging the property of the respondent concern. They badly intimated the managerial personnel of the company and threw articles in the room and on the manager and they threatened the managerial personnel with dire consequences and also threatened to harm the project of the management at work in Himachal Pradesh. The matter was reported to Police Station Baijnath and FIR Number 169/2015 under Section 506, 427, 504 and 34 of Indian Penal Code was registered against applicant and his associates. It is denied that Shri Vinod Kashyap was transferred on the basis of objection of union. It is asserted that Shri Vinod Kashyap was appointed as Inquiry Officer vide office order No. HR/2015/533 dated 8.12.2015 and Shri Nagpal Sr. Executive HR was appointed as Presenting Officer by the management vide office order No. HR/2015/534 dated 8.12.2015 and summons were issued to the applicant on 5.1.2016 and date of hearing was fixed on 11.1.2016 and 28.1.2016 respectively. On 8.3.2016 the applicant and his associates namely Sanjeev Kumar and Saurabh Khatri moved an application before the Labour Officer alleging the irregularities in the ongoing process of enquiry as well as appointment of I.O. and P.O. It is denied that appointment of Shri Vinod Kashyap and Shri Nitin Nagpal as I.O. and P.O. were vague, unreasonable and illegal etc. It is denied that the I.O. had proposed to conduct the enquiry under the direct supervision of the respondent no.1 and the respondent dictated the I.O. to conduct proceeding as per his own choice. It is denied that any amount due to the applicant was withheld unreasonably. It is further denied that the enquiry was not conducted as per provision and the inquiry officer had carried out the inquiry of his own style. It is asserted that the charged workers were asked to file the list of witnesses on the basis of statement but they failed to do so. It is asserted that the applicant was given several chances for the same but on every chance he promised to file the same and produce the witnesses but failed to do so under one pretext or the another. It is asserted that the defense was closed only after given several opportunities to the applicant to file list of witnesses. Other parawise averments made in the petition were denied and it is prayed that claim petition be dismissed.

4. In rejoinder preliminary objections were denied facts stated in the petition are reasserted and reaffirmed.

5. On the basis of the pleadings of the parties, the following issues were framed for adjudication and determination:-

1. Whether the termination of service of petitioner by the respondent on account of suspension and transfer vide letter dated 23-10-2015 is/was legal and justified as alleged? ..*OPP.*

2. If issue no.1 is proved in affirmative, to what service benefits the applicant is entitled to? ..*OPP.*

3. Whether the claim petition is not maintainable in the present form? ..*OPR.*

4. Whether the claim petition is hit by the vice of delay and laches as alleged? ..*OPR.*

5. Whether the claim petition is bad for non-joinder and mis-joinder of the necessary parties as alleged? ..*OPR.*

6. Whether the applicant is estopped from filing the statement of claim by his acts, conduct and deeds as alleged? ..*OPR.*

Relief.

6. During the course of arguments it appeared that essential issue between the parties regarding legality of the enquiry had not been framed. The averments made in the reply pointed towards the fact that termination of the petitioner was in consequence to inquiry conducted by the respondent against the petitioner. In the presence of the parties and learned counsel, the following additional issue was framed a under:—

1(a). Whether the inquiry conducted by the respondent against the petitioner was fair, proper, justified and in accordance with the principle of natural justice, as claimed? ..*OPR.*

Relief.

7. The petitioner has examined one Shri Jayan K.P. s/o Shri K.K. Parmeshwari, presently working as Assistant Manager, AWA Power Company Private Limited by way of examination-in-chief as PW1 and he has produced on record copies of office order daed 23.10.2015 Ext. PW1/A, letter dated 21.11.2015 Ext. PW1/C, memorandum dated nil Ext. PW1/D, letter dated 5.1.2016 Ext. PW1/E, letter dated 16.1.2016 Ext. PW1/F, statement of Shri Harsh Kumar Ext. PW1/G, proceeding dated 28.1.2016 Ext. PW1/H, proceeding meeting dated 31.3.2016 Ext. PW1/J, letter dated 15.3.2016 Ext. PW1/K, show cause notice dated 10.5.2016 Ext. PW1/L, reply to show cause notice dated 21.5.2016 Ext. PW1/M, letter dated 25.5.2016 Ext. PW1/N and letter dated 28.6.2016 Ext. PW1/O. Petitioner has examined himself as PW2 and produced his affidavit Ext. PW2/A and documents i.e. copy of letter dated 18.3.2016 Ext. PW2/B and copy of demand notice Ext. PW2/C.

7. Respondent on the other hand have examined Shri Lekh Raj Rana s/o Shri Mohan Singh Rana at present Liaison Officer, Neugal Power Co. Pvt. Ltd. as by way of his affidavit RW-1. He has also produced on record copy of appointment letter Ext. R-1, letter dated 8.9.2014 Ext. R-2, copy of FIR Ext. R-3, copy of Memorandum Ext. R-4, notice Ext. R-5 and inquiry report Ext.

R-6. The respondent has also examined Shri Harsh Sapolia s/o Shri N.K. Sapolia, Senior Manager, Neugal Power Co. Pvt. Ltd. as RW2 by way of affidavit RW-2. The respondent has also examined one Shri Vinod Kashyap s/o Late Shri Biru Ram as RW3 by way of affidavit Ext. RW3/A.

9. I have heard the learned Counsel for both the parties at length and records perused.

10. For the reasons to be recorded hereinafter while discussing the issues for determination, my findings thereon are as under:—

Issue No. 1	: Yes
Issue No. 1(a)	: No
Issue No. 2	: No
Issue No. 3	: No
Issue No. 4	: No
Issue No. 5	: No
Issue No. 6	: No
Relief.	: Claim petition is partly allowed per operative portion of the Award.

REASONS FOR FINDINGS

Issue No. 1(a)

11. Issue No.1 (a) shall be taken up for adjudication as preliminary issue with respect to dispute between the parties.

12. That the petitioner was appointed as Supervisor by the respondents on December, 2006 vide Ext. R-1 is not disputed fact. He was placed under suspension on 23.10.2015 after the office order dated 23.10.2015 Ext. PW1/A. The affidavit Ext. PW2/A sworn by the petitioner alleges violation of the principle of natural justice and fair play in the conduct of an inquiry by the respondents.

13. A charge-sheet dated 22.12.2015 was served on petitioner which shows that Sh. S.P. Acharya a witness at serial No.1 even though he had himself issued the charge-sheet. Vide order dated 8.12.2015 Shri Vinod Kashyap was appointed as Inquiry Officer who was earlier Senior Manager of respondent company. He was shifted from Himachal Pradesh on the objection raised by the union of employees. Shri Nitin Nagpal was mentioned in the list of witnesses as witness no.6 and he was appointed as Presenting Officer by respondent no.1. It is argued by the learned counsel for the petitioner that the charge-sheet and role of Shri Vinod Kashyap as an Inquiry Officer and Nitin Nagpal as Presenting Officer was unreasonable, illegal, unjustified and in violation of the basic tenets of natural justice.

14. Petitioner alleges in his statement that perusal of letter dated 5.1.2016 shows that inquiry officer has proposed to conduct the inquiry in the office of respondent No.1 at Baijnath. The inquiry was fixed for 11.1.2016 in the office of respondent no.1. The inquiry officer started

the proceedings of inquiry on 28.1.2016 and the petitioner requested the inquiry officer that petitioner want to have assistance of defense assistant in the inquiry proceedings thereafter the inquiry proceedings was fixed for 18.2.2016. On 18.2.2016 the petitioner has appeared along-with his defense assistant Shri Sushil Kumar but the inquiry officer without providing adequate time to defense assistant of petitioner recorded statements of three witnesses with his own style. He asserted that the inquiry was further fixed for 3.3.2016, 11.3.2016 and 18.03.2016 however inquiry officer behaved in his own style. On the next day of inquiry i.e. 31.3.2016 the petitioner started to cross-examine Shri S.P. Acharya but he refused to answer the question on unreasonable ground. It is asserted that inquiry officer supposed to act in accordance with law and to make Shri S.P. Acharya to answer the question but no action on the part of inquiry officer. Thereafter cross-examination of Shri Harsh Sapolia was started but the same could not be completed due to shortage of time and the same was deferred for 13.4.2016. He further alleges that charge-sheet was wholly vague and inquiry officer appointed with a clear motive to cause damage to him. He consequently filed a representation on 8.3.2016 with respondent no.1 to withdraw charge-sheet and remove the inquiry officer. The copy of representation was also sent to Labour Officer however according to him the Labour Officer behaved as mere spectator in the matter. Respondent no.1 rejected the request of the petitioner and inquiry officer issued letter dated 18.3.2016 directing him to participate in inquiry or inquiry officer kept the inquiry proceedings uninterruptedly exparte. The inquiry officer mentioned in letter dated 18.3.2016 that the petitioner was given three opportunities earlier in order to lead his evidence whereas the evidence of prosecution was not yet complete. On that date petitioner was compelled by inquiry officer to submit list of defence witness even when prosecution evidence was not completed. The petitioner was shocked to receive show cause notice dated 10.5.2016 whereby it was mentioned that inquiry officer has submitted the inquiry report and alleged charges have been proved against the petitioner in the said inquiry report. Petitioner submitted his reply to the show cause notice received by him but it is alleged that respondent no.1 again acted in a arbitrary manner against the petitioner and passed an order of dismissal of petitioner from his services. Consequent to which the petitioner had to raise demand notice dated 6.6.2016. The conciliation proceedings were not attended by the respondents and the present reference was issued before this court.

15. Respondents have examined RW1 Shri Lekh Raj Rana, Liaison Officer and RW2 Shri Harsh Sapolia, Senior Manager who have both stated on oath that they were witnesses in the inquiry process and also well conversant with the facts of inquiry proceedings and they deposed that petitioner was appointed as Supervisor as per the specifications of the company policy and was placed under suspension in view of inquiry contemplated against him because of misconduct, misdemeanour, subversion of discipline and his reiterative indulgence in vandalizing and damaging property of the company. They also deposed that petitioner along-with other workers on 14.10.2015 formed unlawful assembly during the meeting with the workers and management. They alleged that petitioner indulged in damaging, vandalizing the property and intimidated the managerial personnel. A case FIR was also registered pertaining to such incident. Since the date of inception of inquiry there was no complaint made by the petitioner or his defence assistant but they moved an application to the Labour Officer alleging irregularities in the inquiry and appointment of inquiry officer. There was no truth in these allegations hence no change was made on his application. Petitioner was given sufficient opportunities to present his defence and the inquiry was conducted in accordance with law as well as principles of natural justice. They also deposed that petitioner himself was not cooperating in the inquiry process and tried to delay the proceedings. According to them petitioner was given several opportunities to produce evidence but he failed to produce evidence and hence his evidence was closed. They also deposed that inquiry process was transparent and petitioner actively participated in the same. According to these witnesses General Manager was a competent authority to issue dismissal order against the petitioner. Respondent have also examined Inquiry Officer RW3 Shri Vinod Kashyap who was also Senior Manager in SPML group in the year 2015. He has deposed about the terms of employment of the petitioner and

the disciplinary proceedings undertaken for the allegations of gross misconduct, misdemeanour, subversion of discipline and his repeated indulgence to vandalize and damage of the company. He also deposed about registration of criminal case against the petitioner and others vide FIR no.169/2015 under Section 506, 427, 504 read with Section 34 of IPC. He was appointed inquiry officer vide office order No. HR/2015/533 dated 8.12.2015. After the initiation of inquiry proceedings were to be held on 8.3.2016, no complaint was made by petitioner about the charge-sheet, conduct of inquiry and Inquiry Officer. The petitioner was given sufficient opportunity to submit his defence and the inquiry was conducted as per the principles of natural justice and settled procedure as per law. He has alleged that petitioner tried to dictate his own terms and did not cooperate in the proceedings in any manner. He also alleges that despite opportunity the petitioner failed to produce his defence evidence. He stated on oath that General Manager is competent to issue dismissal order.

16. All these witnesses in their cross-examination have admitted that charge-sheet was issued by General Manager Shri S.P. Acharya and he was cited as one of the witness in the list of witness vide Annexure-4. They also admitted that dismissal order was also issued by Shri S.P. Acharya. They admitted that Nitin Nagpal was appointed as presenting officer and he was also cited as witness in the list of witness. RW1 Shri Lek Raj Rana has admitted that inquiry was conducted in their office under the supervision of Shri S.P. Acharya.

17. Petitioner in his cross-examination has admitted that an FIR was registered against him and others. He has denied the allegations of quarrel with the company official during course of meeting and he denied that a proper inquiry was got conducted against him consequent to which he was terminated. He denied that inquiry was conducted in a right manner and asserted that he was not given opportunity to put his case.

18. RW3 Shri Vinod Kashyap has admitted that Luni Power Project is at a distance of 60 km from Bagora and petitioner had requested to fix his headquarter at AWA Power Company. The application of the petitioner to fix his headquarter was dismissed by the company. He himself admitted that an employee cannot be shifted out of cadre by the company.

19. RW3 Shri Vinod Kashyap has admitted that charge-sheet Ext. PW1/D was issued by Senior Manager Shri S.P. Acharya. He also admits in Annexure-4 of Ext. PW1/D Senior General Manager Sh. S.P. Acharya has been cited as witness no.1 and he specifically admits that as per rules, the charge-sheeting authority cannot appear as witness. He also admits that dismissal order dated 23.5.2016 Ext. PW1/M was also issued by GM S.P.Acharya.

20. Similarly he has admitted that Shri Nitin Nagpal was also cited as witness in Annexure-4 at serial no.6. He states that presenting officer did not appear as witness on behalf prosecution. He admits that he was transferred to head office Kolkata on the complaint of union, subsequently he has stated that he was also called back on their request.

21. The Hon'ble Supreme Court in **Mohd. Yunus Khan v. State of Uttar Pradesh, 2010 10 SCC 539** has held as follows:—

> "**28.** In *Arjun Chaubey v. Union of India* [(1984) 2 SCC 578 : 1984 SCC (L&S) 290 : AIR 1984 SC 1356] a Constitution Bench of this Court dealt with an identical case wherein an employee serving in the Northern Railway had been dismissed by the Deputy Chief Commercial Superintendent on a charge of misconduct which concerned himself, after considering by himself the explanation given by the employee against the charge and after thinking that the employee was not fit to be retained in service. It was also considered whether in such a case, the Court should deny the relief to the employee, even if the Court

comes to the conclusion that the order of punishment stood vitiated on the ground that the employee had been guilty of habitual acts of indiscipline/misconduct. This Court held that the order of dismissal passed against the employee stood vitiated as it was in utter disregard of the principles of natural justice. The main thrust of the charges against the employee related to his conduct qua the disciplinary authority itself, therefore, it was not open to the disciplinary authority to sit in judgment over the explanation furnished by the employee and decide against the delinquent. No person could be a judge in his own cause and no witness could certify that his own testimony was true. Anyone who had a personal stake in an enquiry must have kept himself aloof from the enquiry. The Court further held that in such a case it could not be considered that the employee did not deserve any relief from the Court since he was habitually guilty of acts subversive of discipline. The illegality from which the order of dismissal passed by the authority concerned suffered was of a character so grave and fundamental that the alleged habitual misbehaviour of the delinquent employee could not cure or condone it.

29. Thus, the legal position emerges that if a person appears as a witness in disciplinary proceedings, he cannot be an enquiry officer nor can he pass the order of punishment as a disciplinary authority. This rule has been held to be sacred. An apprehension of bias operates as a disqualification for a person to act as adjudicator. No person can be a judge in his own cause and no witness can certify that his own testimony is true. Anyone who has personal interest in the disciplinary proceedings must keep himself away from such proceedings. The violation of the principles of natural justice renders the order null and void.

22. The Hon'ble Supreme Court in **State of Uttar Pradesh v. Saroj Kumar Sinha, 2010 2 SCC 772** has also held as follows:—

"**27**. A bare perusal of the aforesaid sub-rule shows that when the respondent had failed to submit the explanation to the charge-sheet it was incumbent upon the inquiry officer to fix a date for his appearance in the inquiry. It is only in a case when the government servant despite notice of the date fixed failed to appear that the inquiry officer can proceed with the inquiry ex parte. Even in such circumstances it is incumbent on the inquiry officer to record the statement of witnesses mentioned in the charge-sheet. Since the government servant is absent, he would clearly lose the benefit of cross-examination of the witnesses. But nonetheless in order to establish the charges the Department is required to produce the necessary evidence before the inquiry officer. This is so as to avoid the charge that the inquiry officer has acted as a prosecutor as well as a judge.

28. An inquiry officer acting in a quasi-judicial authority is in the position of an independent adjudicator. He is not supposed to be a representative of the department/disciplinary authority/Government. His function is to examine the evidence presented by the Department, even in the absence of the delinquent official to see as to whether the unrebutted evidence is sufficient to hold that the charges are proved. In the present case the aforesaid procedure has not been observed. Since no oral evidence has been examined the documents have not been proved, and could not have been taken into consideration to conclude that the charges have been proved against the respondents.

30. When a departmental enquiry is conducted against the government servant it cannot be treated as a casual exercise. The enquiry proceedings also cannot be conducted with a closed mind. The inquiry officer has to be wholly unbiased. The rules of natural justice are required to be observed to ensure not only that justice is done but is manifestly seen to be done. The object of rules of natural justice is to ensure that a government servant is treated

fairly in proceedings which may culminate in imposition of punishment including dismissal/removal from service."

23. The present case is peculiar circumstance of disciplinary authority conducting the disciplinary proceedings against its employees in violation of basic principles of natural justice. Shri S.P. Acharya the disciplinary authority, had issued a charge-sheet and also dismissal order of the petitioner. He became part of inquiry proceedings on the basis of his testimony, the inquiry report was prepared which led to the dismissal of the petitioner. The presenting officer or the prosecutor was cited as witness which implied that he had personal knowledge about the facts of the incident. However he conducted the inquiry as a presenting officer against the petitioner. In these circumstances by no stretch of imagination it can be considered that the inquiry was carried out in unbiased manner. Respondent violated the basic principles of natural justice "no one can be judge in his own cause"

24. RW3 Shri Vinod Kashyap has admitted that the petitioner was appointed by Director of the company Shri S.C. Sethi and post of Director of the company is senior to the GM. He denied that GM was not authorized to conduct the disciplinary proceedings but subsequently admitted that no such documents of authorization has been produced on record by the respondent. He did not deny that the witnesses were examined through telephone. He has not denied that petitioner is acquitted by criminal court on the same set of allegations qua which the inquiry was got conducted by the respondent against the petitioner. Judgment Ext. PX clearly proves this fact.

25. The specific allegation made by the petitioner in his affidavit that he was not supplied with copy of inquiry report and that he was not paid subsistence allowance. Office order, regarding subsistence allowance of the petitioner has produced on record however there is no documentary evidence produced by the respondent that the subsistence allowance was released in favour of the petitioner. Similarly copy of the inquiry report has been produced in the case file and there are specific allegations of petitioner that the report was premature without proper conclusion of the inquiry. There is no date mentioned on inquiry report Ext. R6 which lends support to the allegations of the petitioner regarding inquiry report being premature. No oral or documentary evidence has produced by respondent to show that the inquiry report was sent to the petitioner and was duly received by him before the show cause notice was issued to him by the respondent. The above facts lead to the conclusion that opportunity of being heard was not afforded to the petitioner by the respondent company. The Hon'ble Supreme Court in **Union of India vs. Ram Lakhan Sharma, (2018) 7 SCC 670** has laid down that when the workman was not supplied the inquiry report it amounted to violation of principle of natural justice. The Hon'ble Supreme Court in **J.K. Synthetics Ltd. vs. K.P. Agrawal, (2007) 2 SCC 433** has laid down the legal principle that if the termination from service is shown to be illegal and employee/workman was regularly appointed and had put substantial service he would be entitled to back wages along-with reinstatement.

26. In the circumstances of the present case also the respondent company has conducted the inquiry in a illegal manner and in violation of basic principle of natural justice. The appointment of Inquiry Officer, presenting officer and the witnesses examined during course of inquiry completely vitiated proceedings conducted against the petitioner. There are no circumstances to allow the management/company to lead additional evidence in support of the charges and allegations made against the petitioner. It is not proved that on similar facts and circumstances criminal proceedings against the petitioner have been concluded and he has been pronounced not guilty. Considering the oral facts and circumstances of this case it cannot be held that the inquiry proceedings were just fair and reasonable and in accordance with the principle of natural justice and issue no. 1(a) is decided in the favour of the petitioner.

Issue No. 1

27. The oral and documentary evidence which has been discussed in detail while deciding issue no.1 (a) clearly shows that the services of the petitioner were suspended and he was transferred from his place of work to different project site and subsequently the inquiry was not conducted in accordance with the principle of natural justice. Consequently the suspension and transfer of the petitioner vide letter dated 23.10.2015 and his termination dated 23.5.2016 are not legally sustainable. Issue No.1 is accordingly decided in the favour of petitioner.

Issues No.2, 3, 4, 5 and 6

28. The onus of proving these issues was on the respondent. The maintainability of claim petition was challenged on the ground that the termination of services of petitioner was in accordance with disciplinary proceedings conducted as per law. The facts contrary to the same have emerged during course of evidence. There is nothing to establish that claim petition is barred by limitation and there were parties necessary to be joined for complete and effectual adjudication of dispute between the parties. Respondent has not been able to prove by leading evidence that petitioner by his act and conduct was estopped to file the claim and has suppressed the material facts from this court. The opportunity of leading evidence was given to petitioner as well as respondent even though issue pertaining to inquiry was framed subsequently. There is no enough evidence to establish above mentioned issues. Hence issues no. 2 to 6 are decided in the favour of the petitioner.

RELIEF

29. In view of my discussion on the issues no. 1 to 6 above, the claim petition succeeds and is partly allowed. The suspension of the petitioner and transfer vide letter dated 23.10.2015 consequent termination dated 23.5.2016 are declared to be illegal and consequently quashed. Petitioner is held entitled for reinstatement to his service on similar terms along-with compensation of Rs.2 lakh for the illegal conduct of the proceedings and illegal termination on behalf of respondent. Parties are left to bear their costs.

30. The reference is answered in aforesaid terms. A copy of this Award be sent to the appropriate Government for publication in the official gazette. File after due completion be consigned to the Record Room.

Announced in the open Court today, this 21st day of January, 2026.

Sd/-
(PARVEEN CHAUHAN),
Presiding Judge,
Labour Court-cum-*Industrial Tribunal,*
Kangra at Dharamshala (H.P.).

IN THE COURT OF PARVEEN CHAUHAN, PRESIDING JUDGE, LABOUR COURT-CUM**-INDUSTRIAL TRIBUNAL, KANGRA AT DHARAMSHALA (H.P.)**

Reference No. : 51/2024

Date of Institution : 06-11-2024

Date of Decision : 13-1-2026

Smt. Anita Kumari w/o Shri Surinder Kumar, r/o village Janjhail, P.O. Ropari, Tehsil Sarkaghat, District Mandi, H.P. ..*Petitioner.*

Versus

1. The Executive Engineer, Jal Shakti Division Sarkaghat, District Mandi, H.P. (Principal Employer)

2. The Managing Director, M/S Cleanways, Sahibu Niwas, New Shimla, District Shimla, H.P. (Conractor) ..*Respondents.*

Reference under Section 10 (1) of the Industrial Disputes Act, 1947

For the Petitioner : Nemo

For Respondent No. 1 : Sh. B.C. Katoch, Ld. Dy. D.A.

For Respondent No. 2 : Sh. Harish Guleria, Ld. Adv.

AWARD

The following reference has been received by this court for adjudication from the appropriate Authority/Deputy Labour Commissioner.

> "Whether the termination of services of Smt. Anita Kumari w/o Shri Surinder Kumar, r/o Village Janjhail, P.O. Ropari, Tehsil Sarkaghat, District Mandi, H.P. by (i) the Executive Engineer, Jal Shakti Division Sarkaghat, District Mandi, H.P. (Principal Employer) (ii) the Managing Director, M/S Shimla Cleanways, Sahibu Niwas, New Shimla, District Shimal, H.P. (Contractor) w.e.f. 01.04.2023 (as alleged by workman), without complying with the provisions of the Industrial Disputes Act,1947, is legal and justified? If not, what amount of back wages, seniority, past service benefits and compensation the above worker is entitled to from the above employers?"

1. The petitioner in the present case failed to appear before this court on 06.1.2026 at Mandi. The report shows that the petitioner was duly served for the said date. Despite due service and knowledge of the proceedings she did not put her presence nor any Counsel/Authorized Representative appeared on her behalf. Section 10(B) Clause 9 read with the Industrial Disputes (Central) Rules, 1957."

"10-B (9) In case any party defaults or fails to appear at any stage the Labour Court, Tribunal, or National Tribunal, as the case may be, may proceed with the reference ex-parte and decide the reference application in the absence of the defaulting party."

2. It is argued by learned Dy. D.A. for respondent no.1 as well as learned Counsel for respondent no. 2 that the onus of proving the averments and allegations by way of leading oral or documentary evidence in the court is on the claimant. The learned Dy. D.A./Counsel for the respondents has further submitted that considering the conduct of the petitioner and the fact that she is not able to substantiate the allegations by way leading evidence the reference cannot be decided in favour of the claimant.

3. The perusal of the case file shows that the petitioner has received the summons of the court and opportunities has been granted to the petitioner to appear before this court. She despite

having knowledge of the proceedings failed to appear before this court hence she was proceeded *ex parte*. The onus of proving the fact that termination of the services of the petitioner by the respondents w.e.f. 01.04.2023 was illegal and unjustified was on the petitioner. In absence of cogent evidence to this effect the reference cannot be decided in the favour of petitioner. Rule 22 of The Industrial Disputes (Central) Rules, 1957 also provides as follow:—

> "22. Board, Court, Labour Court, Tribunal, National Tribunal or Arbitrator may proceed ex-parte.- If without sufficient cause being shown, any party to the proceeding before a Board, Court, Labour Court, Tribunal, National Tribunal or Arbitrator fails to attend or to be represented, the Board, Court, Labour Court, Tribunal, National Tribunal or Arbitrator may proceed, as if the party had duly attended or had been represented."

4. Hon'ble Supreme Court in **M/s Haryana Suraj Malting Ltd. vs. Phool Chand, AIR 2018 SC 2670** has observed thus under the statutory scheme the Labour Court/Tribunal is empowered to follow its own procedure as it thinks fit, meaning thereby, a procedure which is fit and proper for the settlement of the Industrial Dispute and for maintaining industrial peace. If a party fails to attend the Court/Tribunal without showing sufficient cause, the Court/Tribunal can proceed *ex parte* and pass an *ex parte* award. The award, *ex parte* or otherwise, has to be sent to the appropriate Government as soon as it is made and the appropriate Government has to publish it within 30 days of its receipt. The award thus published becomes enforceable after a period of 30 days of its publication.

5. In the circumstances of the present case also the reference was made to this court however claimant/petitioner failed to adduce evidence to substantiate allegations.

RELIEF

6. In view of the above, the reference/claim petition is not maintainable and is accordingly dismissed. The parties are left to bear their costs.

7. The reference is answered in aforesaid terms. A copy of this Award be sent to the appropriate Government for publication in the official gazette. File after due completion be consigned to the Record Room.

Announced in the open Court today, this 13th day of January, 2026.

Sd/-
(PARVEEN CHAUHAN),
Presiding Judge,
Labour Court-cum-*Industrial Tribunal,*
Kangra at Dharamshala (H.P.).

HIGH COURT OF HIMACHAL PRADESH, SHIMLA-171 001

NOTIFICATION

Shimla, the 27th February, 2026

No. HHC/GAZ/14-52/74-VIII.—In the interest of administration, Sh. Vishal Thakur, on his appointment as Civil Judge *vide* H.P. Government Notification No. HOME-B-B(2)2/2013-Vol-VI, dated 12-11-2025, is detailed to undergo induction training in the H.P. Judicial Academy,

Shimla with immediate effect till further orders and posted for the purpose of drawal of his salary etc. against the vacant post of Civil Judge (Leave/Training Reserve) in the High Court of Himachal Pradesh.

Note: The regular posting orders shall be issued later on.

By order,

Sd/-
Registrar General.

HIGH COURT OF HIMACHAL PRADESH, SHIMLA-171 001

NOTIFICATION

Shimla, the 2nd March, 2026

No. HHC/GAZ/14-236/99-I.—Hon'ble the Chief Justice has been pleased to grant 02 days earned leave for 03-03-2026 and 04-03-2026 with permission to prefix Sunday and Local holiday falling on 01-03-2026 and 02-03-2026 in favour of Sh. Aman Sood, Principal Judge, Family Court, Mandi, H.P.

Certified that Sh. Aman Sood is likely to join the same post and at the same station from where he proceeds on leave after the expiry of the above period of leave.

Also certified that Sh. Aman Sood would have continued to hold the post of Principal Judge, Family Court, Mandi, H.P. but for his proceeding on leave for the above period.
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By order,

Sd/-
Registrar General.

HIGH COURT OF HIMACHAL PRADESH, SHIMLA-171 001

NOTIFICATION

Shimla, the 2nd March, 2026

No. HHC/GAZ/14-322/2011-I.—Hon'ble the Chief Justice has been pleased to order the cancellation of 08 days' un-availed earned leave *w.e.f.* 18-10-2025 to 25-10-2025, already sanctioned *vide* this Registry Notification No. HHC/GAZ/14-322/2011-I-36543-52 dated 15/16-10-2025, in favour of Ms. Manisha Goyal, Senior Civil Judge-*cum*-CJM Lahaul-Spiti at Kullu.

By order,

Sd/-
Registrar General.

HIGH COURT OF HIMACHAL PRADESH, SHIMLA-171 001

NOTIFICATION

Shimla, the 2nd March, 2026

No. HHC/GAZ/14-322/2011-I.—Hon'ble the Chief Justice has been pleased to grant *ex-post facto* sanction of 02 days earned leave for 09-10-2025 and 10-10-2025, 10 days commuted leave *w.e.f.* 11-10-2025 to 20-10-2025 and further 12 days' earned leave *w.e.f.* 21-10-2025 to 01-11-2025 in favour of Ms. Manisha Goyal, Senior Civil Judge-*cum*-CJM Lahaul-Spiti at Kullu.

Certified that Ms. Manisha Goyal had joined the same post and at the same station from where she proceeded on leave, after expiry of the above period of leave.

Also certified that Ms. Manisha Goyal would have continued to hold the post of Senior Civil Judge-*cum*-CJM, Lahaul-Spiti at Kullu but for her proceeding on leave for the above period.

By order,

Sd/-
Registrar General.

HIGH COURT OF HIMACHAL PRADESH, SHIMLA-171 001

NOTIFICATION

Shimla, the 3rd March, 2026

No. HHC/GAZ/14-389/2019.—Hon'ble the Chief Justice has been pleased to grant *ex-post facto* sanction of 05 days commuted leave *w.e.f.* 13-01-2026 to 17-01-2026 with permission to suffix 18-01-2026 being Sunday in favour of Sh. Anshul Malik, Civil Judge-*cum*-JMFC, Shillai, H.P.

Certified that Sh. Anshul Malik had joined the same post and at the same station from where he had proceeded on leave after the expiry of the above period of leave.

Also certified that Sh. Anshul Malik would have continued to hold the post of the Civil Judge-cum-JMFC, Shillai, but for his proceeding on leave for the above period.

By order,

Sd/-
Registrar General.

HIGH COURT OF HIMACHAL PRADESH, SHIMLA-171 001

NOTIFICATION

Shimla, the 7th March, 2026

No. HHC/Admn.16(7)74-XVIII.—Hon'ble the Chief Justice, in exercise of the powers vested in him U/S 139(b) of the Code of Civil Procedure, 1908, Section 333(1)(b) of the Bharatiya

Nagarik Suraksha Sanhita, 2023 and Rule 5(vi) of the H.P. Oath Commissioners (Appointment & Control) Rules, 2007, has been pleased to appoint Ms. Pooja Prashar (HIM/895/2023), Ms. Tanu Priya (HIM/104/2018) and Ms. Ankita (HIM/58/2018), Advocates, as Oath Commissioners at Kangra, District Kangra for a period of two years with immediate effect for administering oaths and affirmations on affidavits to the deponents under the aforesaid Codes and Rules.

By order of Hon'ble the Chief Justice,

Sd/-
Registrar (Administration).

HIGH COURT OF HIMACHAL PRADESH, SHIMLA-171 001

NOTIFICATION

Shimla, the 7th March, 2026

No. HHC/GAZ/14-398/2019.—Hon'ble the Chief Justice has been pleased to grant 24 days earned leave *w.e.f.* 05-03-2026 to 28-03-2026 with permission to prefix Gazetted holiday falling on 04-03-2026 and to suffix Sunday falling on 29-.03-2026 in favour of Sh. Vikas Kapoor, Civil Judge-*cum*-JMFC, Nahan.

Certified that Sh. Vikas Kapoor is likely to join the same post and at the same station from where he proceeds on leave, after expiry of the above period of leave.

Also certified that Sh. Vikas Kapoor would have continued to hold the post of Civil Judge-cum-JMFC, Nahan but for his proceeding on leave for the above period.

By order,

Sd/-
Registrar General.

HIGH COURT OF HIMACHAL PRADESH, SHIMLA-171 001

NOTIFICATION

Shimla, the 7th March, 2026

No. HHC/Admn.3(399)/95-I.—09 days earned leave on and *w.e.f* 09-03-2026 to 17-03-2026, with permission to prefix Sunday falling on 08-03-2026, is hereby sanctioned in favour of Shri Beer Singh Sharma, Deputy Registrar of this Registry.

Certified that Shri Beer Singh Sharma is likely to join the same post and at the same station from where he proceeds on leave after the expiry of the above leave period.

Certified that Shri Beer Singh Sharma would have continued to officiate the same post of Deputy Registrar but for his proceeding on leave.

By order,

Sd/-
Registrar General.

HIGH COURT OF HIMACHAL PRADESH, SHIMLA-171 001

NOTIFICATION

Shimla, the 7th March, 2026

No. HHC/Admn.6(23)/74-XVII.—Hon'ble the Chief Justice in exercise of the powers vested in him under Rule 2(32) of Chapter 1 of H.P. Financial Rules, 2009 has been pleased to declare the Senior Civil Judge-*cum*-CJM, Sirmaur at Nahan as Drawing and Disbursing Officer in respect of the Court of Civil Judge-cum-JMFC, Nahan and also the Controlling Officer for the purpose of salary, T.A. etc. in respect of Class II to IV establishments attached to the aforesaid Court under Major head "2014 Administration of Justice" during the earned leave period of Sh. Vikas Kapoor, Civil Judge-*cum*-JMFC, Nahan *w.e.f.* 05-03-2026 to 28-03-2026 with permission to prefix Gazetted holiday falling on 04-03-2026 and Sunday falling on 29-03-2026 or till he returns from leave.

By order,

Sd/-
Registrar General.

HIGH COURT OF HIMACHAL PRADESH, SHIMLA-171 001

NOTIFICATION

Shimla, the 7th March, 2026

No. HHC/GAZ/14-343/2014.—Hon'ble the Chief Justice has been pleased to grant *ex-post facto* sanction of 03 days' commuted leave *w.e.f.* 17-01-2026 to 19-01-2026 in favour of Sh. Baljeet, Senior Civil Judge-*cum*-ACJM, Rampur Bushahr, H.P.

Certified that Sh. Baljeet had joined the same post and at the same station from where he proceeded on leave, after expiry of the above period of leave.

Also certified that Sh. Baljeet would have continued to hold the post of the Senior Civil Judge-*cum*-ACJM, Rampur Bushahr, but for his proceeding on leave for the above period.

By order,

Sd/-
Registrar General.

HIGH COURT OF HIMACHAL PRADESH, SHIMLA-171 001

NOTIFICATION

Shimla, the 10th March, 2026

No. HHC/GAZ/14-414/2021.—Hon’ble the Chief Justice has been pleased to grant *ex-post facto* sanction of one and a half day’s commuted leave on 07-01-2026 (2nd half) and 08-01-2026, in favour of Ms. Shubhangi Joshi, Civil Judge-*cum*-JMFC, Kangra.

Certified that Ms. Shubhangi Joshi had joined the same post and at the same station from where she proceeded on leave, after the expiry of the above period of leave.

Also certified that Ms. Shubhangi Joshi would have continued to hold the post of Civil Judge-*cum*- JMFC, Kangra, but for her proceeding on leave for the above period.

By order,

Sd/-
Registrar General.

HIGH COURT OF HIMACHAL PRADESH, SHIMLA-171 001

NOTIFICATION

Shimla, the 10th March, 2026

No. HHC/GAZ/14-358/2015-.—Hon'ble the Chief Justice has been pleased to grant *ex-post facto* sanction of 03 days commuted leave *w.e.f.* 17-12-2025 to 19-12-2025 in favour of Sh. Gaurav Chaudhary, Senior Civil Judge-*cum*-ACJM-II, Dehra, H.P.

Certified that Sh. Gaurav Chaudhary had joined the same post and at the same station from where he proceeded on leave, after the expiry of the above period of leave.

Also certified that Sh. Gaurav Chaudhary would have continued to hold the post of Senior Civil Judge-*cum*-ACJM-II, Dehra, but for his proceeding on leave for the above period.

By order,
Sd/-
Registrar General.

HIGH COURT OF HIMACHAL PRADESH, SHIMLA-171 001

NOTIFICATION

Shimla, the 10th March, 2026

No. HHC/GAZ/14-336/2013.—Hon'ble the Chief Justice has been pleased to grant *ex-post facto* sanction of 05 days' commuted leave *w.e.f.* 11-01-2026 to 15-01-2026 in favour of Sh. Anish Kumar, Senior Civil Judge-*cum*-ACJM, Rohru, H.P.

Certified that Sh. Anish Kumar had joined the same post and at the same station from where he proceeded on leave after the expiry of the above period of leave.

Also certified that Sh. Anish Kumar would have continued to hold the post of Senior Civil Judge-*cum*-ACJM, Rohru, but for his proceeding on leave for the above period.

By order,

Sd/-
Registrar General.

HIGH COURT OF HIMACHAL PRADESH, SHIMLA-171 001

NOTIFICATION

Shimla, the 10th March, 2026

No. HHC/GAZ/14-331/2013.— Hon'ble the Chief Justice has been pleased to grant *ex-post facto* sanction of 04 days' commuted leave *w.e.f.* 19-02-2026 to 22-02-2026 in favour of Ms. Madhvi Singh, Senior Civil Judge-*cum*-ACJM-I, Sundernagar, H.P.

Certified that Ms. Madhvi Singh had joined the same post and at the same station from where she proceeded on leave, after expiry of the above period of leave.

Also certified that Ms. Madhvi Singh would have continued to hold the post of Senior Civil Judge-*cum*-ACJM-I, Sundernagar, but for her proceeding on leave for the above period.

By order,

Sd/-
Registrar General.

HIGH COURT OF HIMACHAL PRADESH, SHIMLA-171 001

NOTIFICATION

Shimla, the 10th March, 2026

No. HHC/GAZ/14-266/2003-I.—Hon'ble the Chief Justice has been pleased to grant *ex-post facto* sanction of 05 days' commuted leave *w.e.f.* 17-12-2025 to 21-12-2025 in favour of Smt. Sapna Pandey, Additional District and Sessions Judge, Dehra.

Certified that Smt. Sapna Pandey had joined the same post and at the same station from where she proceeded on leave, after expiry of the above period of leave.

Also certified that Smt. Sapna Pandey would have continued to hold the post of Additional District and Sessions Judge, Dehra, but for her proceeding on leave for the above period.

By order,

Sd/-
Registrar General.

HIGH COURT OF HIMACHAL PRADESH, SHIMLA-171 001

NOTIFICATION

Shimla, the 10th March, 2026

No. HHC/Estt.3 (649)2009.—06 days commuted leave on and with effect from 16-02-2026 to 21-02-2026 with permission to affix Sunday fell on 15-02-2026 & 22-02-2026, is hereby sanctioned, *ex-post-facto*, in favour of Sh. Pritam Singh Thakur, Court Secretary of this Registry.

Certified that Sh. Pritam Singh Thakur, has joined the same post and at the same station from where he had proceeded on leave after the expiry of the above leave period.

Certified that Sh. Pritam Singh Thakur, would have continued to officiate the same post of Court Secretary but for his proceeding on leave.

By order,

Sd/-
Registrar General.

HIGH COURT OF HIMACHAL PRADESH, SHIMLA-171 001

NOTIFICATION

Shimla, the 11th March, 2026

No. HHC/Admn.6(23)/74-XVII.— Hon'ble the Chief Justice in exercise of the powers vested in him under Rule 2(32) of Chapter 1 of H.P. Financial Rules, 2009 has been pleased to declare the Senior Civil Judge-*cum*-ACJM, Court no. 1, Paonta Sahib as Drawing and Disbursing Officer in respect of the Court of Civil Judge-*cum*-JMFC, Court no. 2, Paonta Sahib and also the Controlling Officer for the purpose of salary, T.A. etc. in respect of Class II to IV establishments attached to the aforesaid Court under Major head "2014 Administration of Justice" during the earned leave period of Sh. Vishal Tiwari, Civil Judge-*cum*-JMFC, Court no. 2, Paonta Sahib *w.e.f.* 16-03-2026 to 20-03-2026 with permission to prefix Sunday falling on 15-03-2026 and suffix Gazetted holiday and Sunday falling on 21-03-2026 and 22-03-2026 or till hereturns from leave.

By order,

Sd/-
Registrar General.

HIGH COURT OF HIMACHAL PRADESH, SHIMLA-171 001

NOTIFICATION

Shimla, the 11th March, 2026

No. HHC/GAZ/14-366/2015.—Hon'ble the Chief Justice has been pleased to grant 05 days earned leave *w.e.*f. 16-03-2026 to 20-03-2026 with permission to prefix Sunday falling on 15-03-2026 and to suffix Gazetted holiday and Sunday falling on 21-03-2026 and 22-03-2026, respectively, in favour of Sh.Vishal Tiwari, Civil Judge-*cum*-JMFC, Court No. 2, Paonta Sahib.

Certified that Sh. Vishal Tiwari is likely to join the same post and at the same station from where he proceeds on leave, after expiry of the above period of leave.

Also certified that Sh. Vishal Tiwari would have continued to hold the post of Civil Judge-*cum*-JMFC, Court No. 2, Paonta Sahib but for his proceeding on leave for the above period.

By order,

Sd/-
Registrar General.

HIGH COURT OF HIMACHAL PRADESH, SHIMLA-171 001

NOTIFICATION

Shimla, the 11th March, 2026

No. HHC/GAZ/14-362/2015.— Hon'ble the Chief Justice has been pleased to grant *ex-post facto* sanction of 04 days'commuted leave *w.e.f.* 12-01-2026 to 15-01-2026 in favour of Ms. Deepali Gambhir, Senior Civil Judge-*cum*-ACJM, Nurpur.

Certified that Ms. Deepali Gambhir had joined the same post and at the same station from where she proceeded on leave, after expiry of the above period of leave.

Also certified that Ms. Deepali Gambhir would continue to hold the post of Senior Civil Judge-*cum*-ACJM, Nurpur, H.P., but for her proceeding on leave for the above period.

By order,

Sd/-
Registrar General.

HIGH COURT OF HIMACHAL PRADESH, SHIMLA-171 001

NOTIFICATION

Shimla, the 11th March, 2026

No. HHC/GAZ/14-339/2014.—Hon'ble the Chief Justice has been pleased to grant *ex-post facto* sanction of 02 days' commuted leave for 12-01-2026 and 13-01-2026 in favour of Smt. Anshu Chaudhary, Senior Civil Judge-*cum*-ACJM, Dehra, H.P.

Certified that Smt. Anshu Chaudhary had joined the same post and at the same station from where she proceeded on leave after the expiry of the above period of leave.

Also certified that Smt. Anshu Chaudhary would have continued to hold the post of Senior Civil Judge-*cum*-ACJM, Dehra, but for her proceeding on leave for the above period.

By order,

Sd/-
Registrar General.

CHANGE OF NAME

I, Vidya Dutt s/o Sh. Kula Nand, r/o Village Pharog (23), P.O. Sertandula, District Sirmaur (H.P.) declare that I have changed my minor daughter's name from Baby five of Saroj Sharma to Saanvi Sharma. All concerned please note for future.

VIDYA DUTT
s/o Sh. Kula Nand,
r/o Village Pharog (23), P.O. Sertandula,
District Sirmaur (H.P.).

CHANGE OF NAME

I, Tenzin Desang d/o Sh. Pema Gylasto, r/o Village Kalath Shallin, P.O. Kalath, Tehsil Manali, District Kullu (H.P.) declare that my name Snehal Shonen Jain is wrongly mentioned in Aadhar Card. Now, I have changed my name from Snehal Shonen Jain to Tenzin Desang. Correct name is Tenzin Desang. Today onwards my name be considered as Tenzin Desang for all purposes. Please note that.

TENZIN DESANG
d/o Sh. Pema Gylasto,
r/o Village Kalath Shallin, P.O. Kalath,
Tehsil Manali, District Kullu (H.P.).

CHANGE OF NAME

I, Kum. Lata Devi w/o Sh. Satbir Singh, r/o Village Dal, P.O. Kot, Tehsil Bamson at Tauni Devi, District Hamirpur (H.P.) declare that I have changed my name from Lata Devi to Kum. Lata Devi for all purposes in future. All concerned please note.

KUM. LATA DEVI
w/o Sh. Satbir Singh,
r/o Village Dal, P.O. Kot,
Tehsil Bamson at Tauni Devi, District Hamirpur (H.P.).

CHANGE OF NAME

I, Jaypal s/o Sh. Rikhi Ram, r/o Village Manal (20), Nohra, District Sirmaur (H.P.)-173 104 declare that I have changed my name from Jaypal to Mahant Jai Giri (जयपाल से महंत जय गिरी). All concerned please note for future.

JAYPAL
s/o Sh. Rikhi Ram,
r/o Village Manal (20), Nohra,
District Sirmaur (H.P.)-173 104.

CORRECTION OF NAME

I, Bimla Devi w/o Sh. Daya Ram, r/o Village Sunda, P.O. Khaneri, Tehsil Rampur, District Shimla (H.P.) declare that my name Vimla Devi in my Aadhar Card is wrongly mentioned and correct name is Bimla Devi as per Panchayat Records. Bimla Devi name should be corrected.

BIMLA DEVI
w/o Sh. Daya Ram,
r/o Village Sunda, P.O. Khaneri,
Tehsil Rampur, District Shimla (H.P.).

CORRECTION OF NAME

I, Bhutu s/o Mohammad Asmaal, r/o Village Seri, Ward No. 2, P.O. Munish Bahali, Sub-Tehsil Taklech, District Shimla (H.P.) declare that my name is incorrectly listed as Julfikar Ali in my Aadhar Card. The Panchayat records list my name as Bhutu. Please correct my name.

BHUTU
s/o Mohammad Asmaal,
r/o Village Seri, Ward No. 2, P.O. Munish Bahali,
Sub-Tehsil Taklech, District Shimla (H.P.).

CHANGE OF NAME

I, Nitya Chandla w/o Sh. Dheeraj Chandla, r/o Village & P.O. Satother (173), Tehsil Amb, District Una (H.P.) declare that I have changed my name from Nitya Chandla to Neeta Kumari. All concerned please note for future.

NITYA CHANDLA
w/o Sh. Dheeraj Chandla,
r/o Village & P.O. Satother (173),
Tehsil Amb, District Una (H.P.).

CHANGE OF NAME

I, Janntun Nesha aged about 50 years w/o Sh. Irshad Khan, r/o Village Rakh Ghansot, P.O. & Tehsil Nalagarh, District Solan (H.P.) declare that before marriage my name was Bunni and after marriage I have changed my name to Janntun Nesha. Now, I am known by both names *i.e.* Bunni and Janntun Nesha.

JANNTUN NESHA
w/o Sh. Irshad Khan,
r/o Village Rakh Ghansot,
P.O. & Tehsil Nalagarh, District Solan (H.P.).

CHANGE OF NAME

I, Krishna Devi w/o Sh. Mehar Singh, r/o Village & P.O. Hanoh, Tehsil Bhoranj, District Hamirpur (H.P.) declare that I have changed my name from Krishni Devi to Krishna Devi for all purposes in future. All concerned please note.

KRISHNA DEVI
w/o Sh. Mehar Singh,
r/o Village & P.O. Hanoh,
Tehsil Bhoranj, District Hamirpur (H.P.).

CHANGE OF NAME

I, Kartan Devi d/o Sh. Porkhi Ram, r/o Village Patyahu, P.O. Nalti, Tehsil & District Hamirpur (H.P.) declare that I have changed my name from Komal Sharma to Kartan Devi. I shall be known as Kartan Devi for all purposes in future. All concerned please note.

KARTAN DEVI
d/o Sh. Porkhi Ram,
r/o Village Patyahu, P.O. Nalti,
Tehsil & District Hamirpur (H.P.).

CHANGE OF NAME

I, Veena Devi w/o Sh. Nand Lal, r/o Village Kuina Kalan (878), P.O. Kaba Kalan, Tehsil & District Solan (H.P.) declare that I have changed my minor daughter's name from Baby One of Veena to Aradhya. All concerned please note for future.

VEENA DEVI
w/o Sh. Nand Lal,
r/o Village Kuina Kalan (878),
P.O. Kaba Kalan, Tehsil & District Solan (H.P.).

CHANGE OF NAME

I, Ashwani Thakur s/o Sh. Chain Singh, r/o Village Padli (68), P.O. Chhausha, Tehsil Kandaghat, District Solan (H.P.) declare that I have changed my minor son's name from Vanish Thakur to Vansh Thakur. Please note all concerned for further.

ASHWANI THAKUR
s/o Sh. Chain Singh,
r/o Village Padli (68), P.O. Chhausha,
Tehsil Kandaghat, District Solan (H.P.).

CHANGE OF NAME

I, Daya Wanti w/o Sh. Sanjeev Kumar, r/o Village Kanoh, P.O. Bisha (423), Tehsil Kandaghat, District Solan (H.P.) declare that I have changed my minor son's name from "Baby one of Daya Wanti" to Dhruv. Please note all concerned for further.

DAYA WANTI
w/o Sh. Sanjeev Kumar,
r/o Village Kanoh, P.O. Bisha (423),
Tehsil Kandaghat, District Solan (H.P.).

CHANGE OF NAME

I, Salita Bibi w/o Sh. Nek Muhammd, r/o Village Pidarta, P.O. Tikkri Minhashna, Tehsil Bhoranj, District Hamirpur (H.P.) declare that I have changed my name from Sunita Begam to Salita Bibi. I shall be known as Salita Bibi for all purposes in future. All concerned please note.

SALITA BIBI
w/o Sh. Nek Muhammd,
r/o Village Pidarta, P.O. Tikkri Minhashna,
Tehsil Bhoranj, District Hamirpur (H.P.).

CHANGE OF NAME

I, Dinesh Kumar s/o Sh. Dhani Ram, r/o Village Navti (736), P.O. Kot, Tehsil Kasauli, District Solan (H.P.) declare that I have changed my minor son's name from Lakshay to Lakshya Kumar. Please note all concerned for future.

DINESH KUMAR
s/o Sh. Dhani Ram,
r/o Village Navti (736), P.O. Kot,
Tehsil Kasauli, District Solan (H.P.).

CHANGE OF NAME

I, Tapiya aged 72 years s/o Sh. Gadhu Ram, r/o Chakban Charri, P.O. Charri, Tehsil Shahpur, District Kangra (H.P.) declare that my name is wrongly written as Tapo Ram instead of Tapiya in my Aadhar Card. All note.

TAPIYA
s/o Sh. Gadhu Ram,
r/o Chakban Charri, P.O. Charri,
Tehsil Shahpur, District Kangra (H.P.).

CHANGE OF NAME

I, Rami Devi w/o Sh. Man Chand, r/o Village Flain, P.O. Dhobi, Tehsil and District Kullu (H.P.) declare that my name Ram Dei is wrongly mentioned in Aadhar Card. Now, I have changed my name from Ram Dei to Rami Devi. Correct name is Rami Devi. Today onward my name should be considered as Rami Devi for all purposes. Please note that.

RAMI DEVI
w/o Sh. Man Chand,
r/o Village Flain, P.O. Dhobi,
Tehsil and District Kullu (H.P.).

CHANGE OF NAME

I, Beli Ram s/o Sh. Ami Chand, r/o Village Karsoh, P.O. Guwardu, Tehsil Bamson at Tauni Devi, District Hamirpur (H.P.) declare that I have changed my name from Ashok Singh to Beli Ram. Ashok Singh & Beli Ram are same persons. All concerned please note.

BELI RAM
s/o Sh. Ami Chand,
r/o Village Karsoh, P.O. Guwardu,
Tehsil Bamson at Tauni Devi, District Hamirpur (H.P.).

CHANGE OF NAME

I, Sandhya Devi w/o Late Sh. Brij Lal, r/o Ward No. 02, Village Pandwin, P.O. Mair, Tehsil Hamirpur, District Hamirpur (H.P.) declare that I have changed my name from Sandhaya Devi to Sandhya Devi for all purposes in future. All concerned please note.

SANDHYA DEVI
w/o Late Sh. Brij Lal,
r/o Ward No. 02, Village Pandwin, P.O. Mair,
Tehsil Hamirpur, District Hamirpur (H.P.).

CHANGE OF NAME

I, Gohdo w/o Sh. Ghino Ram, r/o Village Mangloh, P.O. Banet, Tehsil Chowari, District Chamba (H.P.) declare that my name is wrongly entered in Aadhar Card No. 6703 8163 1877 as Gudo Devi. My correct name is Gohdo. Concerned please note.

GOHDO
w/o Sh. Ghino Ram,
r/o Village Mangloh, P.O. Banet,
Tehsil Chowari, District Chamba (H.P.).

CHANGE OF NAME

I, Moni Thakur s/o Sh. Suresh Kumar, r/o V.P.O. Pingla, Tehsil Sarkaghat, District Mandi (H.P.) declare that I have changed my name from Mona Thakur to Moni Thakur for all purposes in future. All concerned please note.

MONI THAKUR
s/o Sh. Suresh Kumar,
r/o V.P.O. Pingla,
Tehsil Sarkaghat, District Mandi (H.P.).

CHANGE OF NAME

I, Bala Patial w/o Sh. Wattan Singh, r/o Ward No. 11, Village Lahalri, P.O. Dugha, Tehsil & District Hamirpur (H.P.) declare that I have changed my name from Kiran Bala to Bala Patial for all purposes in future. All concerned please note.

BALA PATIAL
w/o Sh. Wattan Singh,
r/o Ward No. 11, Village Lahalri, P.O. Dugha,
Tehsil & District Hamirpur (H.P.).

HIMACHAL PRADESH ELECTRICITY REGULATORY COMMISSION, SHIMLA

NOTIFICATION

Shimla, the 28th March, 2026

No. HPERC-H(1)25/2024.—The Himachal Pradesh Electricity Regulatory Commission, in exercise of the powers conferred by sub-Section (1) and clause (zp) of sub-section (2) of Section 181, of the Electricity Act, 2003 (36 of 2003), and all other powers enabling it in this behalf, and after previous publication, hereby makes the following Regulations further to amend the Himachal Pradesh Electricity Regulatory Commission (Deviation Settlement Mechanism and Related Matters) Regulations, 2024, namely:—

REGULATIONS

1. Short title and commencement.—(1) These Regulations may be called the Himachal Pradesh Electricity Regulatory Commission (Deviation Settlement Mechanism and Related Matters) (Third Amendment) Regulations, 2026.

(2) These Regulations shall come into force from the date of publication in Rajpatra, Himachal Pradesh.

2. Amendment of Regulation 7.—In Regulation 7 of the Himachal Pradesh Electricity Regulatory Commission (Deviation Settlement Mechanism and Related Matters) Regulations, 2024, in sub-regulation (3), for the Note appearing at the end of sub-regulation (3), the following Note shall be substituted, namely,—

"Note: Volume Limits for Buyer (VLB):

Buyer	Volume Limit
Buyer with a schedule upto 400 MW.	VLB(1)=Deviation [20% D_{BUY} or 40 MW, whichever is less]. VLB(2)=Deviation beyond [20% D_{BUY} or 40 MW, whichever is less].

Buyer with a schedule beyond 400 MW.	VLB(1)=Deviation upto [10% D_{BUY} or 100 MW, whichever is less]. VLB(2)=Deviation [beyond 10% D_{BUY} or 100 MW, whichever is less] and upto [15% D_{BUY} or 200 MW, whichever is less]. VLB(3)=Deviation beyond [15% D_{BUY} or 200 MW, whichever is less] ”

By order of the Commission,

Sd/-
Secretary.

नियन्त्रक, मुद्रण तथा लेखन सामग्री, हिमाचल प्रदेश, शिमला–5 द्वारा मुद्रित तथा प्रकाशित
इलेक्ट्रॉनिक हस्ताक्षरित राजपत्र, वैबसाइट https://rajpatra.hp.gov.in पर उपलब्ध है एवम् ऑनलाइन सत्यापित किया जा सकता है।